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California Journal

THE MONTHLY ANALYSIS OF STATE GOVERNMENT AND POLITICS

SPECIAL SECTION
Ballot Proposition Analysis

election '76

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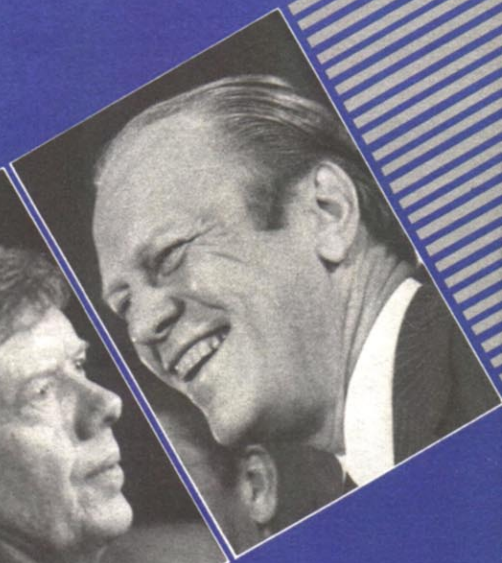

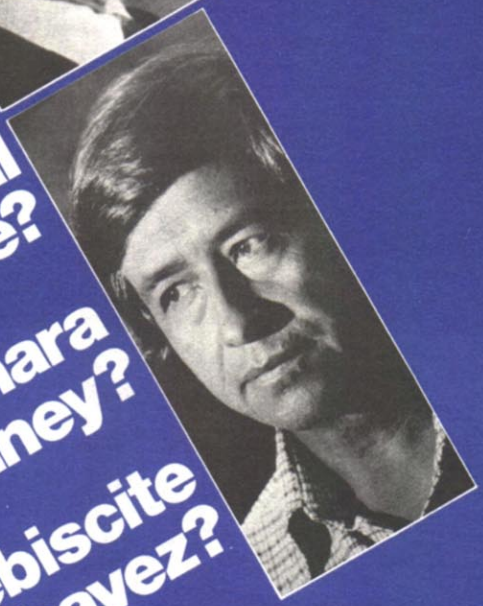

- Presidential swing state?
- Sayonara Tunney?
- Plebiscite on Chavez?

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A PERSONAL PERSPECTIVE . . .

By Ed Salzman

The rascal vote

Americans are said to be disenchanted with their government, and the sure road to political success these days is supposed to be sharp criticism of those at the center of power. So how come incumbents by the carloads haven't been thrown out of office in Washington and Sacramento? How come most of those running for legislative office this year will be reelected?

In the June primary, only one California incumbent was defeated — Republican Congressman Andrew Hinshaw of Orange County. He had been convicted of bribery and couldn't have beaten the best known resident of his county, Mickey Mouse. The voters chose a member of the Sacramento Establishment, veteran Assemblyman Bob Badham, as his replacement.

The best guess is that very few incumbents will be defeated this November. Those who are unseated rarely are those at the center of power, those against whom the public ire should be directed. How often does an Assembly speaker or a Senate president pro tempore get defeated? Never. Those who do lose are often the fringe players whose departure will have relatively little effect on decisions in either Sacramento or Washington.

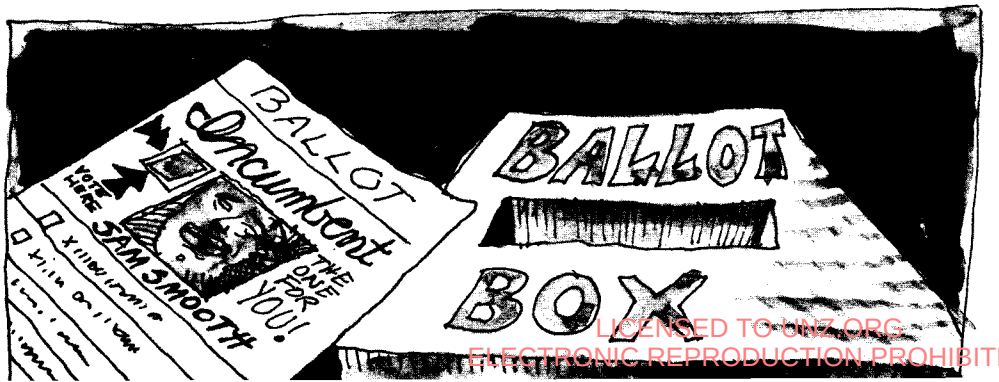
Americans have been reluctant to make changes unless there is a major crisis like the Great Depression. This is one reason why Jerry Ford may win this November, and why Jerry Brown should be a heavy favorite to win in 1978 against any Republican.

If the public is unhappy with results in Washington or Sacramento, the answer is to throw the rascals out. But each individual can have an impact only on one rascal. And voters, usually with good reason, fear that the challenger will be no improvement over the incumbent. At the least, the incumbent is a known quantity, and voters apparently fear the unknown.

Partisanship and incumbency are the two most important elements in the California election process today — and not necessarily in that order. These factors are not even overridden by general feelings of disgust with the work of a congress or a legislature.

That's why the Republicans face such a difficult time getting back into the ball game in time for the next reapportionment. The task of preventing a redistricting by a Democratic legislature and a Democratic governor looks almost impossible. That means even further entrenchment for incumbents of both parties in the 1980's.

Something seems wrong with a political system in which the public expresses disgust with its representatives as a group, but finds it advisable to keep electing them as individuals.



California Journal

THE MONTHLY ANALYSIS
OF STATE GOVERNMENT AND POLITICS

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UP FRONT

Assemblyman Charles Warren has been telling his colleagues about his trip to Plains, Georgia to chair a meeting with Jimmy Carter on energy policy. Warren, it seems, excused himself at one point for a short trip to the bathroom. When he returned, he learned that the nuclear power discussion had come and gone.

The Assembly rollcall on SB 1126 by Senator Ruben Ayala was interesting. The bill, which deals with a procedure by which television repair shops can get technical information, was sponsored on the Assembly floor by Assemblyman Jerry Lewis. The rollcall shows Lewis voting no. The reason: He carried the bill as a courtesy to his senator. Which recalls the time former Assemblyman Don Allen delivered a long and loud speech in favor of a bill and then voted against it. His explanation: "I wasn't very convincing."

Jerry Brown says he hasn't the slightest idea what he will do after his political days are over. He's given the problem some thought, but it is apparent he is not expecting a brief political career.

Outside the state Capitol are signs informing tourists that the reconstruction of the building is "California's Bicentennial Project." At the time the Legislature hassled over funds for the project, not a soul ever mentioned the nation's 200th anniversary. We may be celebrating America's 250th birthday by the time the job is completed.

State Senator Bill Richardson, who has already made a financial success of Gun Owners of America, is off on another major enterprise. He has founded the Law and Order Campaign Committee, which is distributing money to defeat "criminal-coddling politicians" and will mail a new "crime voting index" to every Californian so that target legislators can be exposed. Next year, Richardson says he plans to publish ratings for judges so that those who believe the rights of criminals are more important than the rights of victims will be voted out of office.

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NOT THE ONLY GAME IN TOWN

Party caucuses: A potent legislative force?

By Leah Cartabruno

During the drawn-out battle last March over the appropriation for the stalled Agricultural Labor Relations Board, rural Democratic Assemblymen asked for, and got, a binding caucus position to vote yes on the funding bill. The vulnerable Democrats thought they could protect themselves from their GOP opponents' attacks on the vote by saying it was a caucus position.

Following this move, a debate raged over whether voters elect an individual to represent their views or a member of a political party who will abide by that party's caucus decision. Some questioned the wisdom of the majority party's use of a tactic traditionally employed by the less-powerful minority party. The irony of the ALRB funding bill was that, after the Assembly's rural Democrats made their stand, the bill never made it off the Senate floor. They had risked the voters' wrath for nothing. Aside from the partisan implications, the whole controversy presumes the public knows what caucuses are, how they function, and what role they have in the Legislature's power structure.

Every state legislator belongs to the caucus of his or her political party in each house of the Legislature. The caucus is the forum where party policy and strategy are decided. Currently, there is little similarity among the caucuses. On a spectrum of the most centralized power to the least:

- Assembly Democrats rank as the strongest power.
- Senate Republicans and Democrats, with diffused power, run a dead heat for second.
- Assembly Republicans are last, not because their structure has the least power potential (structurally, they rank right after the Assembly Democrats), but because they control less than a third of the house (25 votes out of 80 equals nothing).

Assembly Democrats

To understand the role of each caucus, it is necessary to examine the power structure within which it works. The Assembly's Democratic caucus is a direct tool of the house leadership. The leadership is made up of the speaker and those with whom he shares power — either through choice or alliance in the battle to be elected speaker. But the focal point of power is the speaker himself. The caucus chairman is usually a part of the power in-group, but it isn't always so. Under the rule of Speaker Bob Moretti, Assemblyman Ken Cory was the caucus chairman but most of the staff, authority and access was given to the majority leader, Assemblyman Jack Fenton, who was better trusted. Currently, under Speaker Leo McCarthy, Democratic Caucus chairman Julian Dixon is a strong member of the leadership team.

There is seldom a break in the ranks of the leadership because of the power flow — it all starts at the hands of the speaker. Besides the majority leader and the caucus chairman, the speaker appoints the chairpersons of the Assembly's 20 standing committees, six permanent subcommittees, six select committees, and half of the 12 joint committees and subcommittee shared with the Senate. Even though the three Democratic Rules Committee members and the Speaker pro Tempore are elected, it's the speaker's candidates who win. In addition to this largess, the speaker decides who sits on which committee, who is appointed to outside commissions, conferences and posts, and whose travel requests get approved.

The prerogatives don't stop at house organization. The speaker, through his four votes on the seven-member Rules Committee, can control seemingly minor housekeeping decisions which individual legislators hold to be very important. These decisions include where a member's office is located and how large it is; how much staff is allocated to the representative, what they're paid and, sometimes, who they are; what kind of equipment and amenities a member gets; and, when deadlines are tight, whose rules waivers are granted. The speaker also has pervasive powers over legislation: he assigns bills to policy committees (supposedly on the basis of subject matter), decides who carries major bills, and marshals forces to either stop or pass a bill — and seldom, if ever, doesn't get his way.

Some Assembly Democrats raise all the campaign funds they need, and then some. For those members who either cannot raise sufficient money or, because of running in a marginal district, need larger sums, the leadership — primarily the speaker who, by virtue of his other powers is the chief fundraiser — funnels money into their campaign treasury. (This is also a mandatory and favorite pastime for members who aspire to the speakership, and bears no relationship to philanthropy.) In the past, the large amount of money raised by the speaker was put in the caucus account and given out to members, sometimes regardless of party, basically on the speaker's say so. This is no longer the case. The authority is still centralized, but the account is not.

According to Democratic Caucus chairman Dixon, the current caucus bank account rarely has more than a $1,000 in it, and that is usually contributed either by Dixon or Majority Leader Howard Berman. Before August, McCarthy and his chief lieutenants Berman, Dixon and Assemblyman Lou Papan (slated to be the new Rules Committee chairman), each had separate accounts and coordinated who would give money to whom. Besides the leadership, only Assemblyman Bill Lockyer had contributed a significant amount to other campaigns. In what could be considered an attempt to co-opt Lockyer and any ambitions he may have, McCarthy included him in a new Democratic campaign committee announced late August.

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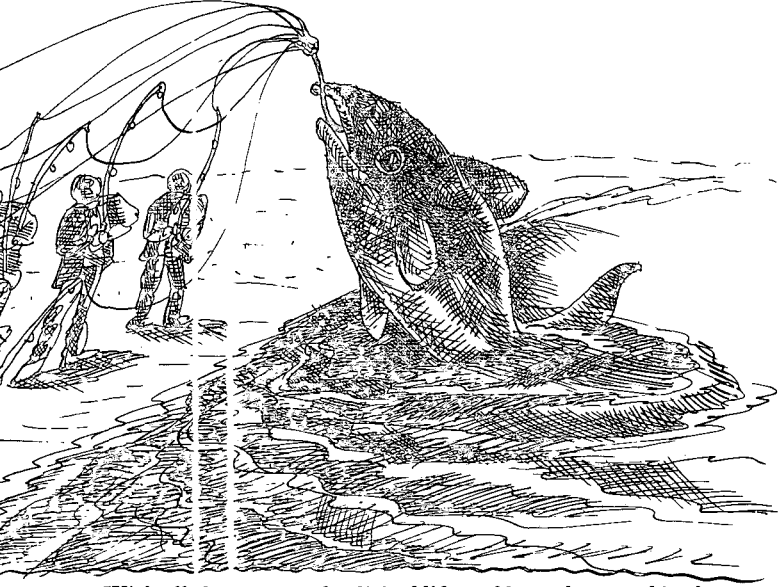

With all the power of political life and breath vested in the speaker, there isn't much decision-making left to the Democratic caucus as a whole. These are some who say there is little discussion of issues either. Retiring Assemblyman Ken Meade condemns the caucus as having a sheep mentality. He charges the current caucus is less informed, doesn't challenge the leadership's position and doesn't take time for questions. "The leadership doesn't even call a caucus if they think there'll be problems," Meade commented. "They deal with problems in private first. Then, at the caucus, the members simply ratify the leadership's decision." He says there are few binding positions taken because the leadership is afraid to lose.

Meade feels the power of the speaker is dictatorial — at least. He comments that the modern-day back-benchers are those the speaker seats out of the TV camera range. He points to all the "weapons" the speaker can use against dissidents and says, "The Speaker is like Standard Oil, but worse. You can shake an interest group."

Caucus chairman Dixon staunchly disputes Meade's criticisms. He says the caucus is more open than it's ever been, with more meaningful discussion and participation than under other speakers. In addition to those caucuses called at the height of floor fights, Dixon says caucuses were called to discuss almost all major issues, but attendance ran only from 20 to 40 or 50 members. Those who weren't there always complained the issues weren't discussed, remarked Dixon, so they were forced to call roll.

"If anything," rues Dixon, "it appears as if there's no direction because of how open it is. There's a lot of confusion where, before, it was quiet and programmed." According to Dixon, proof of the members' autonomy is in how few binding caucus positions are taken. He feels Meade and others are lucky that McCarthy uses the "weapons" in the speaker's arsenal in a positive rather than negative way, for example giving someone a major issue to carry instead of taking legislative reprisals.

Dixon admits the Senate is run more democratically, but he thinks it is necessary to have some focus of power. "It's impossible for the Governor to deal with 120 members individually," he says. The Speaker fills that gap. Dixon argues the centralized authority of the speaker is good because it allows him to push public-interest legislation, and to take the heat for pushing for benefits for all the members.

For most of the two-year session, the Democrats numbered 55 members, one vote more than what's needed for even two-thirds vote urgency measures and appropriations. Are the Democrats determining the public's business behind closed doors, effectively denying public access to the decision-making process? Especially when a close relationship exists between the speaker and the governor, doesn't party policy become government policy? Dixon says no. He maintains both Republicans and Democrats have the right to meet in private, the numbers make no difference. He says the public's right to know includes how a member votes and the official position, but doesn't extend to the inner-most thoughts of the unit.

Senate structure

The antithesis to the Assembly Democrats is either or both parties in the Senate. The Senate's last traces of cohesion died with Senator George Miller New Years Day 1969. After Miller's death, Senate President pro Tempore Hugh Burns was toppled, and the tug-of-war between the "Old Guard" and the "Young Turks" moved first Senator Howard Way, and then Senator Jack Schrade into the position. The late Senator Lewis Sherman's only half-facetious suggestion to have a pro Tem-a-month, rotating among members, typified the situation.

When Senator James Mills took the leadership post in 1971, he promised to be a low-key peacemaker. He more than kept his word. The state of the Senate sometimes borders catatonic. Mills heads the five-member Rules Committee that, unlike under Hugh Burns' reign, really does the legislative housekeeping for the Senate. The majority party takes three of the five chairs; the minority, two. The Rules Committee members are elected in their caucuses, and then re-elected by the full Senate. But there's no rule that says that has to happen. A few years ago, the Democratic caucus elected Senator Al Alquist as its nominee, but Senator George Zenovich was the Rules Committee member after the full-house vote.

There is an unwritten rule that a Rules Committee member cannot chair another committee or be in a leadership post for either party. With the Senate's 16 standing committees (excluding Rules), eight select committees, and four party positions; there aren't too many candidates left. First-term Senators like Clare Berryhill found that being a freshman helped because he was free of old battle scars. Berryhill feels that because a member has to run and campaign for Rules Committee, he hesitates to play favorites. On the other hand, other Senators don't want the Rules member angry at them. The structure ensures the Senate remains a club.

The Senate Republican caucus rarely meets and never has taken a position on a bill in Caucus chairman Dennis E. Carpenter's memory. He says it gets out information on complicated issues and coordinates on a general philosophical basis, but is not rigid in application. With a caucus that contains a political spectrum from ultra-conservative, gun-money coordinator H. L. Richardson to San Francisco's liberal Milton Marks, the reins have to be loose. Even then, tempers can flare as when Richardson socked Marks in the jaw a few years back.

The Republicans don't have a great deal of money to spend on elections by comparison to the Assembly Democrats, but they do support some campaigns. The campaign committee is made up of Carpenter and Senators John Stull and Peter Behr. The other 12 are all running. Both parties have their respective caucus staffs prepare an analysis of bills which reach the floor, in contrast with the Assembly where the Office of Research does the task for the entire house. Carpenter explains that he feels the Senate's Office of Research is controlled by the majority party and that the members would be uncomfortable accepting any analysis from there as non-partisan. His staff's reports, on the other hand, are unbiased, he says, and do not suggest how to vote.

Carpenter maintains that the non-partisan, open stucture of the Senate operates far more comfortably and successfully than the Assembly's. Senate Democratic Caucus

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chairman John Dunlap feels the power a leader can gain in the Senate is less, but that the Senate's structure allows you to do more as an individual. Dunlap, another first-term Senator, is trying to get the caucus moving along, but has no designs on changing the over-all Senate.

One of the major deficiencies of the Democratic caucus is the lack of fund raising. Dunlap, Mills and Democratic Majority Leader David Roberti held a joint fundraising dinner in mid-August to put something into the campaign account. Otherwise, the Democratic Senate caucus performs the same information functions the Republican Senate caucus does.

There is an informal meeting of Senators for breakfast on Wednesdays that is the outgrowth of the group called the "Young Turks." Although it is not an official Democratic group, all the members that attend are Democrats who discuss the major bills, election trends, or anything of interest to the Senators attending. Sometimes the group is joined by Lieutenant Governor Mervyn Dymally.

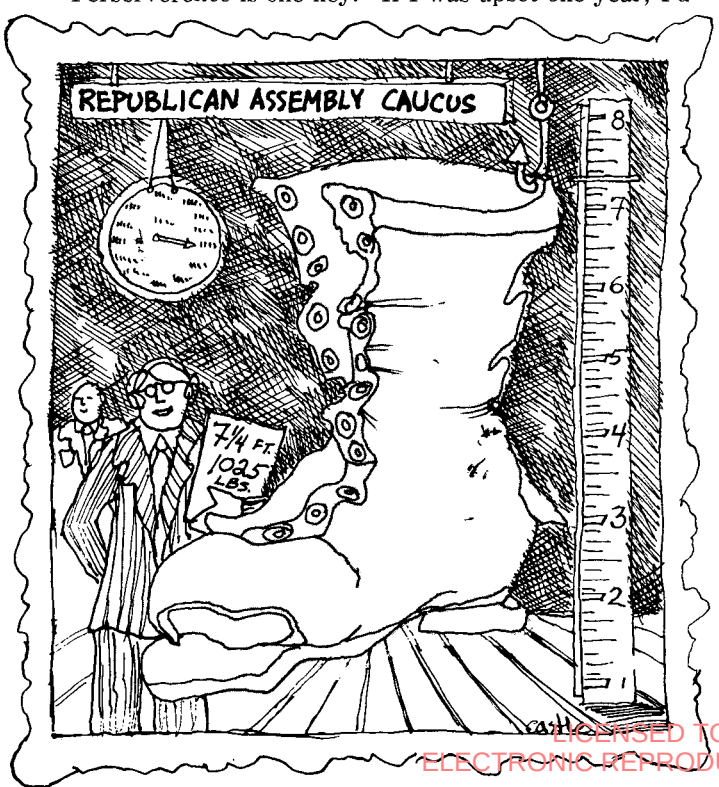
Beilenson moving on

One Senator who has been a part of that group since it formed to rid the Senate of Hugh Burns' leadership is Anthony Beilenson, now running for Tom Rees' congressional seat. Beilsenson personifies the quiet individualist who can successfully accomplish much even though he is not a power monger. Beilenson came to the Senate from an Assembly run by Jesse Unruh. It was quite a change from the forward-looking Unruh. He, then-Senator George Moscone, Mills and others banded together to overthrow the system of personal "fiefdoms" established by the "Old Guard," and to lessen the "inordinate amount of influence the lobbyists had." With the pro Tem changes, Beilenson moved up to the chairmanship of the Senate Health and Welfare Committee and, finally, to the most powerful chairmanship, head of Senate Finance.

He is most proud of establishing the Office of Family Planning which assists over a half million low-income women. He also sponsored legislation to make prophylactics available to sexually active teenagers and authored the landmark abortion bill. How, in a political world run by power and money, did low-key Beilenson do all these controversial things?

Perserverence is one key. "If I was upset one year, I'd just come back the next," philosophized Beilenson. But his personal attributes came into play too. "They (other legislators) knew I was no threat and wasn't overly ambitious. I'm not a partisan person. I have as many friends among the Republicans as the Democrats. And I have no hidden political agenda." Beilenson engenders trust and bills that wouldn't pass with other authors found comparatively little opposition with Beilenson's name on them. The exception to that is this year's coastal conservation bill but, as Beilenson explains, "That wasn't my issue."

His chairmanship of Senate Finance set a new high-water mark for fair treatment in that committee. There were no vindictive power plays, the amendments were exactly as discussed in committee and bills weren't "lost" on their way to the Senate desk.



Assembly Republicans

In the past, the Assembly Republicans have had their problems. There have been two main factions in the caucus, although it is hard to characterize the split along conservative and liberal lines. With the election of Assemblyman Paul Priolo as minority leader, the caucus by-laws were changed to allow him to appoint the caucus chairman and the whip. The structure is more along parlimentary lines: if Priolo is voted out, they all go down together. It also makes the head man more accountable.

There are three main committees: the finance committee headed by Priolo; the elections committee headed by Caucus chairman Eugene Chappie, and the issues committee chaired by Whip Mike Antonovich. Any member of the caucus can join all committees he has an interest in. Democratic Assemblyman Ken Meade, who during the budget hold-up was a member of both the Democratic and Republican caucuses, found the discussion more thorough and the participation wider in the GOP group. It may be that the far small number of Republicans accounts for a large part of this difference.

Caucus secretary Assemblyman William Thomas says there is a high level of discussion on policy and its consequences, but little discussion of political ramifications. (It is interesting to note that the three or four binding positions the Assembly Republicans took in this last two-year session were on potentially politically damaging issues such as the marijuana bill.) Thomas says it isn't necessary to take many caucus positions because they "know where everyone is" after they talk it out.

The Assembly Republicans also have a wide philosophical spectrum. It ranges from the fairly liberal Ken Maddy and the maverick Bruce Nestande to the conservative Fullerton gadfly John Briggs. (Briggs, says a colleague, is so used to attacking that, now that his side won the leadership of the caucus, he is part of the establishment and doesn't know what to do.) Nestande praises the lack of rigidity in the Republican approach. He thinks the system needs ideas and stirring up, and this open structure is the best way to get them.

The GOP caucus in the Assembly has made a concerted effort to collect contributions for its campaigns. But what is hindering it is the same reason the money is so sorely needed — there are only 25 Assembly seats in the Republican column. It's a bad circle: little money, few election gains. Few election gains, no new power. No new (and little old) power, little money. The Republican central committee contributes money to campaigns independently of any caucus.

Whether Republican or Democrat, in the Assembly or the Senate, the caucus is only one of the games politicans play. Except for the Assembly Democrats, it's not the only game in town.

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Crisis at the Bar: lawyers for the middle class

By ANNE JACKSON

The Hendersons are about to lose their home. Ten years ago they borrowed money from a shady finance company. Now, to their considerable shock, they are being dunned for a $5,000 balloon payment. They can't pay it. They need a lawyer, but they don't know one, don't know how to find the kind of lawyer they need, and can't afford a private attorney anyway.

Scott graduated in the top third of his class from a good California law school last year. He spent ten fruitless months looking for a job in the legal profession — and then gave up. Now he and two other jobless law graduates run an organic sandwich shop in San Francisco.

There should be a way for Scott and the Hendersons to get together. Critics say that if the legal profession operated under normal laws of supply and demand there would be a chance for that to happen. But it doesn't. The paradoxical result is that, despite a burgeoning pool of law graduates (nearly 5,000 were admitted to the bar in California last year alone), much of the public finds lawyers priced beyond its means. And, at the same time, young lawyers are scratching for jobs in the legal profession. The employment outlook for law graduates is so pessimistic that John Malone, executive secretary of the California Bar, calls new lawyers "a drug on the market."

By the American Bar Association's estimation, 32 million American families fall into the middle-class group which can't afford private attorneys but have too much income to qualify for government-funded legal aid. Programs to supply the poor with lawyers do little better. Those who administer the civil legal aid programs estimate they are able to meet only 10 to 15 percent of the existing need. In the 11 California counties between Tulare and San Diego, for example, there is only one legal aid attorney for every 15,528 poor persons. In Los Angeles, legal aid attorneys must handle an average of 613 clients apiece with $3.67 budgeted per client. Over half the counties in California have no legal aid programs at all.

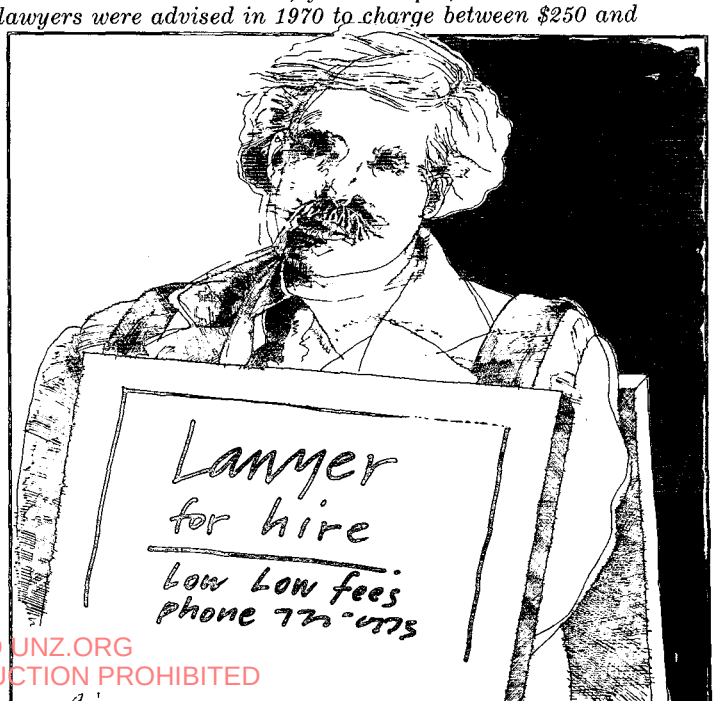
Even the constitutionally guaranteed right to counsel for those accused of crimes is so often unmet that the Law Enforcement Assistance Administration last fall called compliance with it "token in nature," and labelled the Sixth Amendment provision "an empty right" for many defendants.

Lawyer availability

The organized bar wrings its hands over reports like those. The American Bar Association, whose rules are only advisory to state bar associations, proclaims in its Code of Professional Ethics, "A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the independent professional services of a lawyer of integrity and competence."

But critics claim the legal profession has done little to make that goal a reality. In fact, they contend, what really stands in the way of universal, competent legal representation is none other than the bar itself. Some of the examples they cite:

- *The bar's rules against lawyer advertising and solicitation*
- *The bar's obstruction of effective, inexpensive legal insurance plans*
- *The bar's unwillingness to require lawyers to keep pace with the law through compulsory courses or periodic testing*
- *The bar's attempts to place restrictions on the training and use of paraprofessionals*
- *The bar's failure to effectively control attorneys found to be dishonest or incompetent*
- *The bar's prohibition of clinics run by lay persons to handle legal matters which lend themselves to standardized procedures, such as simple divorces and bankruptcies*
- *The bar's resistance to legal clinics offering standard legal services at reduced cost*
- *The official use in the past (and some say continued unofficial use) of minimum fee schedules by local bar associations – under which, for example, San Francisco lawyers were advised in 1970 to charge between $250 and*



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$350 for a name change and between $730 and $1550 for an uncontested divorce.

In effect, say critics, bar policies favor the old, private-law-office approach to law practice at the expense of other, more affordable systems. And even within that framework, they complain, the bar precludes open competition and keeps legal fees artificially high. Many lawyers indeed do profit under the current system. The median annual income of firm lawyers was estimated in 1974 to be $40,100. The legal profession, though, doesn't see itself in the role of the villain. Bar associations contend their rules are necessary to protect unwitting clients from con artists and those untrained in the law.

Whether or not bar policies are to blame, the fact is lawyers are generally affordable only for business clients and relatively affluent individuals. As the skill and training of lawyers becomes specialized toward the needs of business clients, the bar's avowed goal of equal representation for all takes on the appearance of a collapsing house of cards. As the scales are tipped in favor of the bar's traditional clients, the concurrent need of the poor and the middle class for legal help increases. And this imbalance can have impact beyond the immediately obvious.

U.S. Supreme Court Justice Thurgood Marshall recently observed that, as paid advocates for various parties and interests, lawyers hold the key to all society's policy and decision making. Those without access to lawyers, therefore, are left peering through a figurative candy store window at the legislative, administrative and judicial offerings.

Legal advertising

A similar observation led the author of one American Bar Association study to conclude that the legal profession should be regulated like a public utility. No one quite expects that to happen. But as the mutterings become louder, U.S. Justice Department officials have begun to publicly question the inherent conflict of roles of the organized bar which operates simultaneously as a regulator of lawyers and as a promotional body for the legal profession. From all sides, pressure is building to make lawyers more accessible, more affordable, and more directly accountable to the public.

Recently much of the controversy has centered upon the touchy question of whether lawyers should be permitted to advertise. Like other state bar associations, the California Bar for 50 years has allowed attorneys to make public only the sparsest information about themselves, and only in specified publications. In telephone company yellow pages, they have been allowed to list only their name, address, telephone number, and, under a limited test program, their bar-certified specialty if they had one. In bar-approved "law directories" — publications circulated for the most part only among lawyers — they have also been allowed to list certain biographical data. But in no case have they been permitted to do or say anything designed to "attract lay clients."

The bar has defended these rules as necessary for the protection of the public. "Competitive advertising," reads the ABA canons, "would encourage extravagant, artful, self-laudatory brashness in seeking business and thus could mislead the layman." A recent California Bar report warned advertising could "stir up litigation," victimize the poor and encourage "ill means on the part of lawyers to live up to the promises given in the ads." And state bar secretary Malone sees in a lifting of the advertising ban the spectre of lawyers advertising in the daily newspapers, or "hiring dirigibles," with a consequent "jacking up of attorneys' fees from which the public is going to suffer."

But the rub for consumers is that, without some hint as to how much a lawyer charges or what areas of the law he or she practices, the process of selecting an attorney can amount to a Russian roulette search of the yellow pages. In some cities, the bar does offer the alternative of a lawyer referral service, but since a call to one of those agencies normally yields simply the next name on the list, the potential client might do as well with the telephone book.

As Los Angeles attorney Carol Agate argued last year in the Los Angeles Bar Bulletin, the bar's fears that clients might choose a lawyer on the dubious basis of an enticing ad ignores the fact that now the public has no information at all to go on. Other critics of bar rules contend advertising would lower, not raise, attorneys' fees by opening up competition among established firms and by making it easier for new lawyers to start their own practices.

Lowering legal fees is not a goal universally embraced among lawyers. Aside from the obvious threat of reduced incomes, attorneys tend to equate low-cost lawyering with shoddy lawyering and to believe that offering inexpensive legal services smacks of unethical conduct. One illustration of this has been the behavior of the California Bar toward the Legal Clinic of Jacoby and Meyers. That clinic is the now-famous law office which opened in Van Nuys in 1972 with the declared purpose of providing low-cost legal services to the public through the use of standardized procedures, paralegal help, and an absence of frills.

Almost since the day it opened, the Jacoby and Meyers firm has been locked in battle with the state bar. The bar has no actual criticism of the quality of the clinic's legal work, but objects to what it considers its advertising and solicitation and to its use of the name "legal clinic." As former state bar president Brent Abel complained, "When you see the words 'Legal Clinic,' the impression that a person has is that somehow that service is cheaper than the service that has simply the name of the lawyers on the door."

(Leonard Jacoby and Stephen Meyers, the two young founders of the clinic, claim they have never advertised, but only granted interviews to the news media, and have fought the bar's attempts to suspend them from practice. Their case is now before the state Supreme Court with a decision expected sometime this year. Meanwhile, reports partner Meyers, the clinic continues to operate, has expanded to four offices employing nine attorneys and has served some 10,000 clients. Fees run from 50 to 75 percent of the going rate, and sometimes even less. The clinic handles routine divorce cases, for example, for $150, compared to the $500 generally charged by other attorneys in the area.)

Forced progress

Despite the legal profession's misgivings about advertising, prevailing judicial winds a year ago began shifting in favor of those who want the advertising ban softened or lifted. And bar associations have begun stirring to revise their rules before someone else does it for them.

The American Bar Association last December somewhat relaxed its ban on advertising. The California Bar, in a move distinguished more for its caution than anything else, recently began steps to follow suit. Under rules tentatively approved by the state bar's board of governors, and which must still be approved by the state Supreme Court, California attorneys may make public the areas of law in which they practice and the basic fees they charge for various services. The information may appear in bar-approved law directories and in the telephone book (although telephone-company rules prohibit the publication of fees). For the first time, the bar would allow organizations such as consumer groups to publish law directories. As State Bar President David S. Casey explained, "We're trying to relax the rules as little as possible, not as much as possible."

While bar critics may count at least a partial victory on

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the advertising issue, there is another matter which seems to be in stalemate — the struggle to make effective legal insurance plans available to the public. Those plans, which were developed at the turn of the century, fall generally into two categories: group plans and prepaid plans.

Under a group plan, clients receive limited free legal consultation and lowered legal fees through their membership in a group (usually a union) which contracts with law firms for the service. Prepaid plans operate like Blue Cross, giving the client legal help for the price of an annual premium — from $12 to $250 a year.

For decades the legal profession fought the plans, saying that lawyers registered with them competed unfairly against the rest of the legal community and that the programs constituted "unauthorized practice of law" because they placed a "lay intermediary" (the insurance company or union) between lawyer and client.

It took a series of Supreme Court decisions in the 1960's to overcome the bar's resistance so that the programs could exist at all, and bar rules continued to be an obstacle. The California Bar, for example, requires a group plan to have 1,000 participating lawyers signed up, or 20 percent of the local bar, before the plan can advertise. And other rules severely restrict the extent and manner in which a plan can make its existence and services known.

Group and prepaid plans

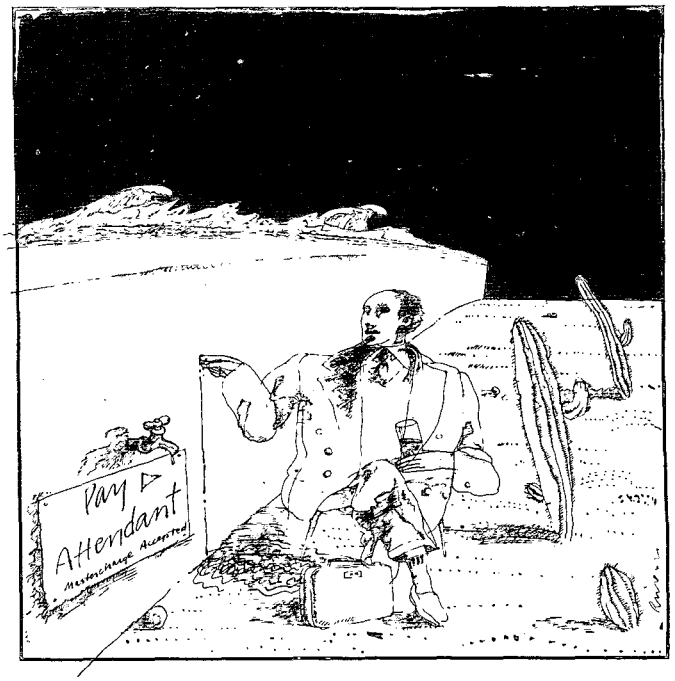
As a result, in California only about 7,500 persons are covered by prepaid plans. Group plans have fared better — there are about 1,000 now in the state; but these generally offer only very limited service. Now the California Bar, in what seems a surprising move, is trying to organize its own legal-insurance program under the name "California Lawyers Service." But the U.S. Justice Department is challenging that action on grounds of unfair competition.

The legal profession has other insurance headaches these days. Travelers Insurance Company this year raised its malpractice premium for California lawyers 383 percent. For a five-attorney firm, that means an increase from about $2000 to about $7000 a year. The state bar has filed suit temporarily blocking the rise, but lawyers will probably have to pay more for malpractice coverage before long.

One apparent reason is that unhappy clients are becoming more willing to sue their lawyers if they think their case was bungled or that they were cheated. And now a handful of attorneys are surfacing who don't mind breaking the unwritten code among lawyers not to sue a "brother (or sister)-at-the-bar." Sacramento attorney Edward P. Freidberg, whose practice was once devoted to medical malpractice now spends about half his time suing lawyers. He has already won five legal malpractice suits collecting $282,000 in damages, and has ten additional suits pending.

Freidberg claims his work is made possible because incompetence in the legal profession is "rampant," and because the bar has neither the funds nor the inclination to cope with it. As an example, he points to a fellow Sacramento attorney, a former vice president of the state bar, who was twice sued successfully for malpractice by Freidberg in separate, highly publicized cases. The issue in one case was incompetence and, in the other, outright fraud of a client for which a jury awarded $25,000 in actual and $35,000 in punitive damages. Yet, Freidberg observes, the state bar has taken no disciplinary actions and the attorney continues to practice — a fact which the bar confirms.

The state bar does have a mechanism for handling attorney incompetence and misconduct. Every attorney seeking to practice in California must first pass the California bar examination. The bar also operates a disciplining system which last year processed 5,432 complaints against lawyers,



and through which 98 attorneys were disbarred, suspended, or voluntarily resigned from the bar.

In order to compensate victims of dishonest lawyers, the bar also keeps a "client security fund" which repays victims of deliberate attorney misconduct up to $25,000 per claim. But one problem is that clients often don't realize when their attorney has blown a case or bilked them. And other attorneys and judges tend to look the other way rather than report an errant colleague.

Recertification program

The state Legislature has shown some concern in recent years about attorney competence. Under a resolution passed in 1973, the bar must eventually come up with a program of recertification — some means of assuring that lawyers remain competent by keeping up with the rapid changes in the law. The bar already conducts a continuing education program for bar members, but attendance is not mandatory and attorneys are never retested once they have passed the bar examination. Bar spokesman Malone concedes that in 1974, 10,000 California lawyers took no continuing education courses in the law.

Although the Legislature set no deadline for the recertification program to take effect, the bar has said it is aiming for compliance in 1978. But whether or to what extent coursework and testing will be included is a matter of bitter debate within the bar. Meanwhile, with malpractice suits on the rise, insurance carriers have hinted they may begin to insist on refresher courses and on a demonstration of office efficiency as a condition of coverage.

But while legal services may be improving, however slightly, for the upper and middle classes, what of the poor? Are lawyers apt to become more available to them? The answer is, probably not — at least not without significant policy changes at the federal level. Before 1966, the poor had to rely for legal help in civil cases solely on the charity of private attorneys who donated their time and who had little expertise in areas of the law which concern low-income people — tenant rights, social security, unemployment matters and the like.

The Office of Economic Opportunity legal services program, set up during the so-called "War on Poverty," created paid positions for the first time for legal aid attorneys. But the program suffered a steady decline in funding during the Nixon Administration and was only saved by court action from the Administration's attempts to dismantle it altogether.

(CONTINUED)

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Now, the federal Legal Services Corporation has been established to take over the legal services operation formerly run by the OEO. But it looks as though funding in the immediate future will fail to even maintain the present level of service. Already, about half the poor in the nation live in areas without legal aid programs.

Right to counsel

One plan being considered as an alternative is judicare. Under this idea, which is supported by the California Bar, the government would pay the fees of private attorneys for representing poor clients, just as medical services are now provided under medicare. But critics fear this would be a step backward to the pre-1966 brand of volunteer legal aid which brought poverty clients together with attorneys unskilled in poverty law.

Because of the Sixth Amendment right to counsel in criminal matters, indigents have a better, though by no means absolute, chance to get legal help in a criminal case. It was not until relatively recently that the courts interpreted the right to counsel to mean that those who cannot afford counsel have a right to have a lawyer provided for them. Before 1972, the right to counsel was recognized only in felony cases. Now anyone who faces even one day in jail is supposed to be provided with free legal counsel if the accused can't afford to hire a lawyer. But, according to the Law Enforcement Assistance Administration, defendants are frequently assumed to have waived the right to counsel unless they aggressively assert it, and others often waive the right after being warned they may later have to pay for the "free" counsel provided.

In California, there has been one significant improvement in criminal legal representation. For the first time, indigents convicted of crimes now have a chance to obtain free legal counsel to help them appeal the conviction. The new office of the State Public Defender, established for that purpose, began operations on July 1st and is well funded with a $3 million budget for the first year. Besides conducting criminal appeals, the State Public Defender is authorized to prosecute to collect wages or other money due an indigent and to defend in civil litigation if a person is being "persecuted or unduly harassed."

There have been a few other bright spots for the consumer in the legal picture lately. The use of minimum fee schedules has been declared illegal by the U.S. Supreme Court. The California Bar may soon undergo a liberalization of its policies with the appointment of six new lay members to its board of governors. And still another phenomenon has been the establishment in recent years of foundation-funded public interest law firms across the country providing legal clout in such areas as environmental protection, employment discrimination, and consumer law. Unless some action is taken, the days of the public interest firms may be numbered. Foundations have warned they will not fund them indefinitely. And even now, only about 250 of the nation's 355,000 lawyers practice public interest law.

Much can be done to make our system of laws more equitable. Some observers have advocated measures to reduce the need for lawyers, such as providing more effective education in the law for the public; developing other redress mechanisms such as mediation and consumer complaint services; encouraging the use of paralegals; enacting no-fault laws; and simplifying routine legal transactions so that they can be handled by lay persons. Many of these ideas have been actively opposed by bar associations in the name of the public good. The California Bar currently has six injunctions outstanding against lay clinics offering low-cost divorces and recently filed suit against a lay bankruptcy clinic.

In the 1976 legislative session, the state bar successfully opposed two measures — one which would have prohibited the bar from banning lawyer advertising, and another which would have required attorneys to devote some time to charitable legal work. And the California Bar has blocked no-fault automobile insurance laws in every legislative session since 1971.

Meanwhile, high legal fees and a lopsided system of justice continue to be the rule. As one critic recently observed, "As long as there are clients and interests in need of service and representation, the (legal) profession is ill-advised to talk of protecting the public against inadequate representation."

ROSTRUM

The Journal *welcomes short letters expressing viewpoints on major issues in state government and politics.*
THE EDITORS

Defending the CDC

The June issue carried an article by Larry Gerston on the California Democratic Council. As official CDC historian, I disagree with some of his conclusions. (Space limitations make it impossible to rebut adequately. To obtain a documented rebuttal at no cost, write to the CDC, 5371 Wilshire Blvd., Los Angeles 90036.)

Gerston's article reflects deep pessimism about grass-roots democracy in general and the CDC in particular. He perceives the Democratic party leadership, as well as leaders in other organizations, as all-powerful. His article is an attempt to support his belief that you can't fight city hall — at least CDC can't. History, however, disproves this defeatist belief.

Granted, those in power resist change, but compared with the Republican party, the Democratic party has undergone significant changes. Yesterday's CDC and liberal-group programs have become today's Democratic party platform. Gerston emphasizes that Democratic leaders are wiping out CDC because it dissents *from the mainstream positions.* Doesn't he realize that yesterday's dissent is often today's mainstream position?

Yesterday, the Democratic party did not concern itself with sex equality. Today, the Democratic platform calls for ratification of the Equal Rights Amendment. The 1972 Democratic platform copied CDC's plank on women almost word for word.

Yesterday, the Democratic party supported Johnson's war in VietNam. Today, the Democratic platform admits that "we have learned, at a tragically high price, certain lessons regarding Southeast Asia. We should not seek to control the political future of that region." CDC contributed to that change by taking the lead in Democratic circles to oppose the war and by encouraging Eugene McCarthy to challenge President Johnson.

These are only some of the numerous examples of how CDC influenced the Democratic party and the nation. CDC was able to do this because it is part of *a national movement of groups which* have faith in the people to fight for a better life. If CDC and others held Gerston's pessimistic view of life, we would all be worse off. This is why the CDC persists and will continue to persist in its campaign for democracy and progress.

R. FRED KUGLER
Long Beach

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California, key to the Presidency

Sayonara Tunney?

Heavy turnover for the state Senate

By Ed Salzman

Warning to anyone preparing to bet on this year's presidential election: Beware of the public-opinion polls. When a national survey gives Jimmy Carter a 10-point lead, the race is virtually even except for the solid south, where President Ford has continually been 2-1 behind.

Mervin Field, California's leading pollster, feels that there is "incredible volatility" within the electorate this year, witness the unprecedented swing in voter sentiment from Carter to Ford between the Democratic and Republican conventions. If the race is as close as it seems, California could provide the margin of victory for either candidate. The state is more important for Ford than for Carter because the President probably cannot win without it.

Carter starts with the solid south, plus traditional northern Democratic strongholds like Massachusetts, Minnesota and the District of Columbia. Add California and the ball game would be just about over. Field's poll in early August showed Carter with a 20-point lead, but national polls taken since that time indicate that the President has closed the gap considerably.

What happens in the California presidential campaign during the next few weeks could well decide the fate of the entire election. Both camps may start allocating a disproportionate share of their resources to the state, which can provide their candidate with almost 20 percent of the electoral votes needed for victory.

When Californians go to the polls on November 2nd, they will also decide a tight Senate race between Democratic incumbent John Tunney and Republican semanticist S. I. Hayakawa, an initiative proposition sponsored by Cesar Chavez' United Farm Workers and numerous close legislative races. Republicans are concentrating on preventing the Democrats from capturing two-thirds control of both houses of the Legislature. Voter turnout for the presidential race could be instrumental in deciding the makeup of the Legislature.

Pollster Field claims that Californians usually vote pretty much in concert with the rest of the nation, with the exception of the south. This year, the situation may be significantly different because of the Ronald Reagan factor. Californians may harbor some resentment toward Ford because he defeated the home-state hero for the Republican nomination.

But, while Reagan may be a special problem in California, it was the former California governor who helped Ford get within shooting distance of Carter. The Reagan challenge caused Ford to build a better campaign organization, take more positive stands on issues and become a better speaker. Ford had never beaten anyone outside of his Grand Rapids constituency. The defeat of Reagan at the Kansas City convention gave him papers of national legitimacy.

The outcome of the presidential election in California and, perhaps, across the nation will probably depend on the impression the public gets from the series of debates between the candidates. Political debates are like soccer games — dull, low-scoring and often ending in ties. The public somehow gets a notion of the character of the candidates from these encounters, even when differences on issues are not clear.

In 1964, Californians watched a debate between Democrat Pierre Salinger and Republican George Murphy, candidates for the United States Senate seat vacated by the death of Clair Engle. Salinger was the winner on debating points, but Murphy won the election. The old song-and-dance man emerged as the nice guy and Salinger as the heavy.

Carter must give Americans a reason to dump their nice-guy President. The last incumbent president to be defeated was Herbert Hoover, and that was in the depths of the Great Depression. If Ford comes out of the debates as Mr. Nice Guy, it may make little difference whether Carter has demolished him on substance.

The first debate, on September 23rd, was in fact like a soccer game, with the polls indicating that the President had a slight edge, probably because of Carter's nervousness.

In August of 1948, Field's California Poll showed Harry Truman trailing Thomas Dewey by seven points, 41-34. Truman carried the state by two-tenths of one percent. Ford has made the Democrat from Independence his symbol for this campaign. Indeed, many comparisons can be drawn between the two men, although their political backgrounds are different. This is a year in which there is a gelatinous voter with little depth of feeling for either candidate, and the outcome will probably be in doubt until the end regardless of the polls, which once gave Carter a 33-point lead.

Carter may or may not have been born again, but there is no doubt that Ford has risen from the politically dead.

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UNITED STATES SENATE

After the June primary election, United States Senator John Tunney confided that he was behind the Republican nominee, Dr. S. I. Hayakawa. Tunney was wrong — but not far wrong. The first California Poll on the race showed Tunney with a slim 44-43 lead, a rather dismal showing for an incumbent having had six years to build a political base.

Yet, the situation could have been worse. There could have been a bigger undecided vote, indicating that those who supported his primary opponent, Tom Hayden, were sitting on their hands. And he could have been behind. As it turned out, one in three of the Hayden voters indicated that they had switched to Hayakawa. Pollster Field feels that this switch of party allegiance could prove fatal to Tunney if he can't bring some of those votes back.

During the primary, Hayakawa took few stands on major issues, labeling himself a "Republican unpredictable." But in the first weeks of the actual campaign, major differences have developed between the candidates, and it is now clear that Hayakawa has taken a standard conservative Republican stance. This could be helpful to Tunney in wooing back insurgent Hayden Democrats.

Among the issues: Tunney is for the Carter amnesty plan for VietNam draft dodgers; Hayakawa is opposed. Tunney wants the federal government to play a role in providing full employment and health care; Hayakawa would leave these responsibilities to private enterprise. Tunney is supporting Proposition 14, Cesar Chavez' farm-labor initiative; Hayakawa opposes it. Tunney favors forced breakup of the major petroleum corporations; Hayakawa is on the other side.

One of the interesting issues that has arisen concerns candidate attitude toward the Japanese relocation centers established in California during World War II. Hayakawa, not then a Californian, claims there were "unexpected benefits" from these camps because they resulted in the distribution of the Japanese-American population over a wider area. Tunney sees nothing good about the centers, describing them as "prison camps."

Tunney has been making every effort to coordinate his campaign with Carter's based on the theory that Carter will help him most in those areas where Tunney has a natural weakness, such as the central valley, and where Hayakawa's conservative policies might have appeal to moderate Democrats. But, especially in the farm regions, that theory may backfire because both Carter and Tunney have endorsed the farm-labor initiative (Proposition 14).

Hayakawa has been the beneficiary of a united and enthusiastic Republican party. Those who supported both Ford and Reagan for the presidential nomination are behind him. A Hayakawa victory is being viewed in GOP ranks as the keynote to a GOP comeback in the state.

Tunney has no such wellspring of support among Democrats. He knows he faces the possibility of defeat and is campaigning in a hard-hitting style more characteristic of an underdog. He has found a way of bringing up Hayakawa's age, 70, without using it as a direct issue. He says, in Ciceronian style, that Hayakawa's age is not an issue, but his opponent's old-fashioned ideas are.

How important is Carter to a Tunney victory? If past California elections are any indication, the coattails of a presidential candidate will be short indeed. In 1964, Lyndon Johnson defeated Barry Goldwater, 59-41, in the state; yet George Murphy defeated Democrat Pierre Salinger for the Senate — even though then-Governor Pat Brown had bestowed the advantage of incumbency upon Salinger.

For Tunney, a bigger problem is voter apathy. Both he and Carter (and Democrats generally) need a large turnout, especially in loyal Democratic areas. In some of those areas, like college campuses, Tunney must overcome the Hayden problem. Tunney cannot expect to make himself personally popular like his colleague Alan Cranston during a brief campaign. He can win only by keeping Democrats loyal, and by hammering home the emerging differences between himself and Hayakawa on major issues.

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HOUSE of REPRESENTATIVES

Only a few Congressional district contests are worth watching this year. The current breakdown of the 43 member delegation is 28-15 in favor of the Democrats. Incumbents are seeking reelection in all but three districts, and two of those races were decided in the primary. Little, if any, change will be made in the partisan complexion of the delegation, but there are three seats — two now Republican and one now Democratic — that are too tight to call.

SAFE SEATS. The following 37 candidates, 24 Democrats and 13 Republicans, look safe:

Democrats: Harold (Bizz) Johnson, John Moss, Phillip and John Burton, George Miller, Ron Dellums, Fortney (Pete) Stark, Don Edwards, Leo Ryan, Norman Mineta, John McFall, B. F. Sisk, John Krebs, James Corman, Anthony Beilenson, Henry Waxman, Edward Roybal, Yvonne Brathwaite Burke, Augustus Hawkins, George Danielson, Charles Wilson, Glenn Anderson, George Brown and Lionel Van Deerlin. All are incumbents except Beilenson, currently a state Senator. He will succeed Thomas Rees, who chose not to seek reelection.

Republicans: Don Clausen, Paul (Pete) McCloskey, William Ketchum, Robert Lagomarsino, Barry Goldwater Jr., Carlos Moorhead, John Rousselot, Del Clawson, Shirley Pettis, Charles Wiggins, Robert Badham, Bob Wilson and Clair Burgener. All are incumbents except Badham, who will succeed Andrew Hinshaw, convicted of bribery prior to the June primary.

LONGSHOTS. Among these supposedly safe representatives are a few who are longshot possibilities to be upset because of adverse party registration or other factors. Those include Democrat Ryan and Republicans Clausen, McCloskey, Ketchum, Clawson, Goldwater and Wilson.

LEANERS. Republicans will make an effort to unseat three freshman Democrats who captured marginal seats two years ago in the Democratic sweep of California. They are Mark Hannaford of Lakewood, Jerry Patterson of Santa Ana and Jim Lloyd of West Covina. Of the three, Lloyd probably faces the most difficult challenge from former Covina Mayor Louis Brutocao, who was hurt earlier this year in a run for reelection to the Convina city council. These three seats are rated leaning Democratic. There are no seats in the leaning-Republican category.

DOUBTFUL. Most of the attention will be devoted to the three seats in the doubtful or too-close-to-predict category:

District 4 (64%D-30%R) — Incumbent Robert Leggett of Suisun City normally would be a shoo-in, but suddenly found himself in deep trouble because of revelations of his sexual activities in Washington. The district has a Democratic base, but Republican Albert Dehr of Sacramento County has a good chance, especially with the entry of Sacramento County Supervisor Ted Sheedy, a Democrat, into the contest as a write-in candidate. Leggett has been working the district hard and may be able to overcome both the negative publicity and the Sheedy factor.

District 16 (56%D-37%R) — Incumbent Republican Burt Talcott of Salinas has been a prime Democratic target for several years, barely escaping with his seat two years ago. Talcott has an abrasive personality which has led Democrats to believe he can be toppled. Attorney Leon Panetta of Carmel Valley showed campaigning ability in the primary, and should have plenty of money to run a well-nourished attack on Talcott. Talcott has released the results of a private poll showing him far in the lead. Polls of this kind, unless taken in late October, usually reflect name identification only.

District 27 (50%D-43%R) — This is the district currently represented by Republican Alphonzo Bell, who ran unsuccessfully for United States Senate this June. Normally, this would be considered a relatively safe GOP constituency. But the Republicans nominated an ultra-conservative broadcasting personality, Robert K. Dornan, whom many believe is too far to the right for the district. This has encouraged Democrats to make a major effort on behalf of Gary Familian, who is wealthy enough (from the plumbing business) to finance a decent campaign without outside help.

STATE SENATE

The state Senate could assume a new political make up as a result of this year's general election. There will be at least seven new faces in the Senate this December, with as many as 12 newcomers. This means that the turnover will be between 18 and 40 percent as only half the 40 Senate seats are being contested this year. Of the 20 holdover seats, the Democrats hold a 17-3 advantage. This means that the Democrats must win only half of this year's races to win a two-thirds Senate majority of 27-13, up from 25-15 at present.

SAFE SEATS. Half the 20 seats on the ballot this November are in the safe category, five for Democrats and five for Republicans. The Democrats, all incumbents: Albert Rodda, Nicholas Petris, Alfred Alquist, David Roberti and Bill Greene. The Republicans: Incumbents John Nejedly, Newton Russell and H. L. (Bill) Richardson, plus newcomers from the Assembly, Ernest Mobley and John Briggs.

LONGSHOTS. Because of overwhelming Democratic registration, there is an outside chance that Nejedly or Mobley might be upset. Neither has a partisan image, and their districts do not have Democratic majorities with strong party loyalty. Mobley also is facing one of four women, Rose Ann Vuich, who won Democratic Senate primaries last June. The other three women are better bets to win.

LEANERS. Reapportionment drastically affected four districts, including two in which there was no incumbent. Three of the four districts are leaning toward the Republican nominees.

District 19 (50%D-44%R) — Incumbent Republican Lou Cusanovich has been working hard for the past two years to make himself known (and popular) in this district, which includes the northwest corner of Los Angeles County and a hunk of Ventura County. But he has drawn a tigress of an opponent in Sabrina Schiller, an actress-environmentalist who has been running an aggressive campaign. The key question is whether she can lure enough Republican women in this area, which has a GOP tradition. Leans Republican.

District 27 (52%D-41%R) — Reapportionment put two incumbents, Republican Robert Stevens and Democrat Jim Wedworth, together in this coastal-Los Angeles district. Stevens retired, and former Assembly GOP floorleader Robert Beverly entered the race. This area also has a Republican tradition, and Beverly knows the territory. But Wedworth, who is viewed as something of a wierdo by those in the political establishment, has managed to survive. Beverly should win, but Wedworth's lucky streak may continue. Leans Republican.

District 33 (54%D-41%R) — This Whittier-based district is one of two created through reapportionment without an incumbent. The Republican candidate, Assemblyman Bill Campbell, has run in this area several times and has excellent name identification. But, he has two factors running against him: He has been linked to Dr. Louis Cella, the Orange County medical-political manipulator recently sentenced to prison; and his opponent is a woman in a year when that may be an advantage. The Democratic nominee, Betty Wilson, is far from an amateur, having served as mayor of Santa Fe Springs and having been employed as a aide to a Los Angeles city councilman. Leans Republican.

District 37 (54%D-39%R) — This is the other non-incumbent district created by reapportionment. Again, there is the Cella

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factor, but on both sides of the political fence. The Democratic nominee, Assemblyman Paul Carpenter, also has been linked to Cella, but the Republican nominee, ultra-conservative former-policeman Loran Norton, refused to answer questions asked by the grand jury in the Cella investigation. Carpenter should win, if only because he has drawn Norton as an opponent. Leans Democratic.

DOUBTFUL. There are six contests that will decide the flavor of the Senate next year. In four of the races, incumbents are under attack. In the other two, the retirement of Republican incumbents provided opportunities for possible Democratic gains. The big six:

District 1 (58%D-37%R) — The dean of the Legislature, Senator Randolph Collier of Siskiyou County, faces his toughest challenge in many years from former GOP Assemblyman Ray Johnson. Collier had to fight hard to win the Democratic primary. Now, he will spend another small fortune to win another term that will keep him in the Legislature at least through the age of 78. Johnson has been working the far-flung northern territory for years, knowing he faces an uphill struggle against the man who is best know as the "father of the freeways."

District 5 (68%D-22%R) — Senator Milton Marks of San Francisco is a Republican by technicality only. He looks, acts and votes like a Democrat. But, this year his party registration may finally catch up with him. His post-redistricting constituency is loyal to the Democrats, while Marks was weakened by a poor showing in last year's mayoralty race. In past years, Marks had drawn support from the Jewish Democrats of San Francisco. This year he has a Jewish opponent in Supervisor Robert Mendelsohn, who won a rough primary against attorney Fred Furth. It may be that Marks' old-fashioned handshake campaigning will allow him to upset the statistics. He would have been much better off had he landed in the San Francisco-San Mateo seat now held by state Senator John Foran.

District 13 (59%D-36%R) — An unconscionable amount of money will probably be spent in this nine-county district branching eastward from Sacramento. Freshman Senator Clare Berryhill chose not to run again, and both parties came up with well-known candidates — Assemblyman John Garamendi for the Democrats and former Sacramento television anchorman Bob Whitten for the Republicans. Garamendi is a championship-caliber campaigner, but the key question is whether that quality will be offset by Whitten's name and face identification, not to mention heavy gun-money contributions.

District 17 (56%D-37%R) — This district became a battleground with the retirement of Republican Senator Donald Grunsky. A few months ago, it appeared that Republican Assemblyman Bob Nimmo would take the central-coast seat, but the Democrats have mounted a significant campaign behind former Santa Cruz County Supervisor Phil Harry to put the issue in doubt.

District 31 (59%D-35%R) — The women of California are keeping special watch on this district because it represents the best opportunity for the first female to be elected to the state Senate. The incumbent, Republican floor leader George Deukmejian, was weakened by reapportionment. His opponent, Councilwoman Renee Simon of Long Beach, is running an aggressive campaign against both Deukmejian and the Long Beach newspaper, the *Independent Press Telegram,* which is supporting the incumbent. Simon has a tremendous registration advantage, but Deukmejian's popularity extends beyond the GOP.

District 39 (50%D-41%R) — This is more a battle of personality than party or philosophy. The defender is the oldest member of the Legislature, 74-year-old Jack Schrade, a one-time ultra-conservative who has been casting surprisingly liberal votes as the tenor of San Diego politics has changed. Despite his age, Schrade is spry and still able to conduct a rough-and-tumble campaign. The challenger is 33-year-old Assemblyman Bob Wilson, who has demonstrated an ability to win Assembly elections in an area with a Republican tradition. He too is a superb door-to-door campaigner.

Perino

Bannai

Robinson

STATE ASSEMBLY

Ten years ago, the Republicans took control of the Assembly. GOP fortunes since then have sunk so low that, this year, the goal is preventing the Democrats from maintaining a two thirds majority in the lower house. The Democrats came out of the 1974 election with a whopping 55 - 25 advantage. Republicans are determined to pick up a few seats this year.

Democrats go into the November election with 43 safe seats, so there is no chance that the Republicans can win a majority. There are an additional four seats that are leaning Democratic. That means the Democrats must win seven of the 11 doubtful races to hit the two-thirds mark of 54. Looking at the figures the other way, the Republicans start with 14 safe seats with eight leaning their way. Thus, they need win only three of the 11 doubtful races to prevent any losses. Any above that will be gravy.

SAFE SEATS. Here are the 43 Democrats who are rated safe: Barry Keene, Vic Fazio, Eugene Gualco, Leroy Greene, Dan Boatwright, John Knox, Tom Bates, John Miller, Bill Lockyer, Floyd Mori, Art Agnos, Willie Brown, Leo McCarthy, Louis Papan, Victor Calvo, John Vasconcellos, Leona Egeland, Alister McAlister, John Thurman, Gary Hart, Jim Keysor, Tom Bane, Howard Berman, Alan Sieroty, Herschel Rosenthal, Charles Warren, Teresa Hughes, Maxine Waters, Julian Dixon, Curtis Tucker, Vincent Thomas, Frank Vicencia, Richard Alatorre, Art Torres, Mike Cullen, Fred Chel, Jack Fenton, Joe Montoya, Terry Goggin, Walter Ingalls, Larry Kapiloff, Peter Chacon, Wadie Deddeh. All are incumbents except Bates, Agnos and Waters.

Safe Republicans: Dixon Arnett, Richard Hayden, Gordon Duffy, Robert Cline, Paul Priolo, Mike Antonovich, Frank Lanterman, Marilyn Ryan, Bud Collier, Jerry Lewis, Bill Dannemeyer, Bruce Nestande, Jim Slemons, Bill Craven. Ryan, Dannemeyer and Slemons won primary fights in Republican districts; the others are incumbents.

LONGSHOTS. Democrats Hart and Chel are freshman Democrats from previously Republican districts. Republicans Cline and Priolo are opposed by women, and could be upset if there is a significant crossover vote by Republican women.

LEANERS. There are 12 districts in which there are decided favorites but, for reasons of registration or personality, the seats cannot be placed in the safe column.

District 3 (56%D-39%R) — Incumbent Eugene Chappie of Roseville found the going rough two years ago, but he should do a bit better this time. College teacher George Shaw has mounted a strong campaign but he may be a bit too liberal for the district. Leans Republican.

District 9 (54%D-37%R) — Republicans feel they have an excellent chance of defeating freshman Michael Wornum of Marin County with Councilman John Miskimen of San Rafael. Wornum looked vulnerable in the primary. The district was Republican for years before Wornum won in 1974. Leans Democratic.

District 29 (55%D-40%R) — This seat went up for grabs when incumbent Bob Nimmo, a Republican, decided to run for the state Senate. His aide, Carol Hallett of Atascadero, won the primary handily and is the favorite for November. The registration is marginal, giving Democrat Martin Dodd a chance with a superior campaign. Leans Republican.

District 30 (68%D-28%R) — This

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district will never be safe for Republican Ken Maddy of Fresno because of the registration problem, which he has always overcome. Leans Republican.

District 33 (58%D-38%R)— Incumbent Bill Thomas of Bakersfield has a Democratic registration advantage to worry about. This seat has swung back and forth between the parties over the years, and he will probably never be safe. Leans Republican.

District 34 (54%D-40%R) — This district was a toss-up two years ago, but Democrat Larry Chimbole of Palmdale was the winner. The registration is marginal, and rancher-attorney Phil Wyman of Tehachapi has a chance. Leans Democratic.

District 36 (55%D-39%R) — Incumbent Ken MacDonald of Ventura County decided to flee Sacramento. The Democrats are counting the seat in the bank for Jane Tolmach, former Oxnard mayor. But Republican Charles Imbrecht cannot be counted out. Leans Democratic.

District 62 (50%D-45%R) — This district would normally be considered safe for incumbent Bill Lancaster of Covina. His problem is an aggressive campaign on the part of Democrat Sandy Baldonado. Leans Republican

District 63 (60%D-33%R)— Republican Bob McLennan of Downey retained his seat in a bitter fight two years ago against another incumbent, Democrat Joe Gonsalves. But McLennan, the only physician in the Legislature cannot rest comfortably this year because of the Democratic registration. School board member Bruce Young of Cerritos has a chance. Leans Republican.

District 64 (48%D-46%R) — Assemblyman Bill Campbell gave up this seat to run for the state Senate. The GOP nominee, attorney M. David Stirling of Hacienda Heights, should be a heavy favorite, given the conservative complexion of the district. But, he has an unusual opponent in James Gonsalves, son of former Assemblyman Joe Gonsalves (see District 63 analysis). Young Gonsalves is trying to develop enough Republican support to win. Leans Republican.

District 65 (55%D-40%R)— Democrat Bill McVittie of Upland took this marginal seat two years ago and should retain it against engineer Clyde Stephens of Pomona. Leans Democratic.

District 73 (45%D-47%R)— All the rules of politics would make this a solid GOP district, but incumbent Robert Burke of Huntington Beach almost gave his seat away two years ago. Democrat Dennis Mangers is back for another try at a major upset, and he cannot be discounted. Leans Republican.

DOUBTFUL. The Republicans have an advantage in the 11 districts that are rated as doubtful because eight of the seats are now represented by Democrats. In seven of the 11 districts, candidates started on roughly even footing because there are no incumbents in those races. The incumbents who have to fight hardest to retain their seats are Democrats Carmen Perino of Stockton, Tom Suitt of Indian Wells and Richard Robinson of Santa Ana, and Republican Paul Bannai of Gardena.

District 1 (60%D-35%R) — The retirement of Assemblywoman Pauline Davis, a Democrat, set the stage for a rough campaign in this nine-county district where party registration means relatively little. Large sums of money are being spent on behalf of Democrat Betty Smith, former mayor of Chico, and Republican Stan Statham, a television newscaster.

District 7 (57%D-38%R) — This eight-county district is now represented by Democrat John Garamendi, who is running for the state Senate. Both of the candidates, Democrat Norm Waters of Plymouth, and Republican Dan Parises of Lodi, are experienced campaigners. Democratic loyalty is weak in the district, where person-to-person politics wins elections.

District 8 (58%D-36%R)— Republican Ron Greenslate of Napa figured to be a rough challenger for this seat even before the incumbent, Alfred Siegler, died just before the primary. Democratic leaders designated Mike Gage, administrative assistant to state Senator John Dunlap, as Siegler's replacement on the ballot. Now, the race can go either way and is one of the most hotly contested in the state.

District 26 (63%D-33%R)— This is one of the most interesting elections of the year. The incumbent is Carmen Perino, a freshman Democrat representing an area that had previously gone Republican. The GOP candidate, former-Assemblyman Doug Carter, chose to run in a different district two years ago, withdrew from the contest in a dispute with then-Governor Ronald Reagan, then resumed campaigning and was defeated. Carter knows the territory, and the voters know Carter. The question is whether he has retained enough credibility to defeat Perino.

District 28 (57%D-36%R)— Republican Assemblyman Frank Murphy has had a lock on this district for a decade. But Murphy is retiring, and both parties have an equal shot at the Monterey-Santa Cruz seat. The candidates are Republican Larry Parrish, a probation officer, and Democrat Henry J. Mello, a businessman. Mello probably needs a heavy vote from Santa Cruz students to win.

District 31 (58%D-37%R)— Fresno farmer Bill Jones is the Republican hope to hold this seat being vacated by Ernest Mobley, who is running for the Senate. He faces a skilled opponent in Richard Lehman, aide to Democratic Senator George Zenovich. The registration looks good for the Democrat, but loyalty is weak.

District 53 (69%D-24%R) — The Democrats are almost ashamed that they have been unable to topple Republican incumbent Paul Bannai of Gardena the last two times out. No Republican can be expected to hold this seat forever, given the registration. But Bannai has better than an even shot against Cindy Wear, who won the Democratic nomination by a handful of votes in a recount. Republicans think the loser, Hawthorne Councilman Joe Miller, would have been a stronger challenger.

District 71 (56%D-38%R) — Can the Republicans mount a comeback in Orange County, once the cornerstone of the GOP in California and recently beginning a gradual shift to the Democrats? The outcome of this race may be indicative. The incumbent is Democrat Paul Carpenter, who is running for the Senate. The nominees are Democrat Chet Wray of Westminster, a labor official, and Republican Phil Seitz, an Anaheim businessman. Big money has been pouring into this race on both sides.

District 72 (53%D-40%R) — The Republicans have designated freshman Democrat Richard Robinson of Santa Ana as a prime target. They are publicizing the Cella label on him in an effort to regain this previously solid GOP territory. The Republican nominee is Peter Vogel, a Santa Ana school board member. Two years ago, Robinson won easily against former football player Marlin McKeever. Vogel should be rougher.

District 75 (49%D-45%R)— This will probably be the most bitterly fought race in the state. The incumbent is Democrat Tom Suitt, who pulled the surprise of 1974 by knocking off an entrenched incumbent after winning the primary by write-in. The Republican is Supervisor Al McCandless of Riverside County, a conservative who had strong ties to the Reagan Administration. (See separate article on this race.)

District 77 (49%D-44%R) — Democrats used to have no chance in districts like this, but incumbent Bob Wilson of San Diego proved otherwise. Now, Wilson is vacating the seat to run for the Senate, and Republicans are attempting to restore normalcy to the area. The GOP nominee, San Diego councilman Jim Ellis, has an edge, but Democrat Tim Cohelan, son of former Congressman Jeffery Cohelan of Berkeley, is a skilled politician whose candidacy cannot be dismissed.

Successful write-in candidates

The following candidates won their party nominations by write-in at the June primary election:

Bruce Latta (D), 26th Congressional District.
John Mukari (R), 17th Assembly District.
Byron Skinner (D), 20th Assembly District.
Ralph H. Andrews (R), 43rd Assembly District.
Edward A. Tuttle (R), 57th Assembly District.
Ronald B. Kirkemo (D), 76th Assembly District.

In addition, Democratic Assemblyman John Knox of Richmond won the Republican nomination by write-in, and Republican Assemblyman Jerry Lewis of San Bernardino County won the Democratic nomination by write-in.

Mike Gage of Solano County was designated as the Democratic nominee for Assembly in the Eighth District following the death of incumbent Alfred Siegler.

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Duel in the sun

One of the most hotly contested legislative races this year is in the Assembly district now represented by Democrat Tom Suitt, who qualified for the November ballot two years ago by a write-in vote in the primary. His opponent is Supervisor Al McCandless of Riverside County, who had close connections with the Administration of former Governor Ronald Reagan.

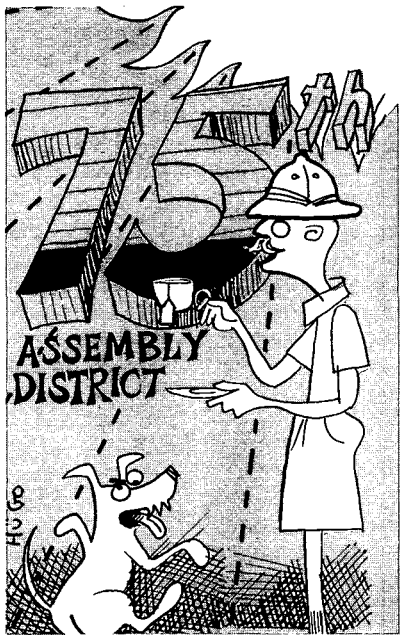
By JAMES R. BROOKS

The August heat in the Coachella and Imperial Valleys is the kind of penetrating, scorching warmth that makes steering wheels too hot to handle and would have prompted Noel Coward to write "mad dogs and Englishmen go out in the noonday sun," if he hadn't thought of the Sahara Desert first. Yet two quite sane and sensible politicians are venturing into that searing summer heat at every available opportunity. Their target: the 75th Assembly District electorate.

Democrat Tom Suitt of Indian Wells surprised everyone but himself with a narrow victory two years ago over a GOP incumbent who lost touch with the home folks. Forty years old on September 30th, he is a full-time political person and former operator of skill centers and adult-education schools. Now, he is going full-tilt to get a firm lock on an 18,000-square-mile district where Republican registration has been slipping. Taking maximum advantage of his incumbency and the perquisites of office, Suitt campaigns as a middle-of-the-road lawmaker who can successfully compromise and conciliate the diverse views of his constituents.

Containing all but the northwestern portions of Riverside County, all of Imperial County and the eastern half of San Diego County, the 75th Assembly district is registered 48 percent Democratic to 45 percent Republican. By conventional political wisdom, those numbers give the edge to the Republican. (Democratic candidates don't usually feel comfortable until they have at least a 55 percent Democratic registration because Republican turnout and loyalty are higher.) But such traditions don't score in the 75th — witness the 40,561 to 39,132 margin by which Suitt edged an over-confident Ray Seeley in 1974.

Suitt is campaigning as a "moderate" with important influence in the Democratic councils in Sacramento. Along the way, support from Cesar Chavez and his United Farm Workers



is welcomed but not sought at all costs. To Tom Suitt, the votes of the farmers as well as the farm workers are the prize, and this balancing act, in a district where the UFW, the Teamsters and the farmer organizations have all been at each other's throats, is a precarious effort indeed.

Conservative opponent

Riverside County Supervisor Al McCandless, 49, offers a more conventional and conservative Republican candidacy. He sold his Indio GMC auto dealership last fall to devote full time to his official duties (or opportunities). Suitt and McCandless both scored nearly 70 percent pluralities over lackluster primary opposition, but McCandless terms his 78 percent advantage in the area he serves as supervisor a "referendum of sorts of my performance." Both men readily acknowledge the statewide significance of their contest, but both also disclaim knowledge of any massive financial aid from higher party echelons.

Suitt's crucial vote that allowed the Agricultural Labor Relations Board financing measure to pass out of the Assembly hurt him with the district's grower interests despite the fact the measure later died in the Senate. This will probably cost him the support of most of the farm-oriented newspapers in the district.

McCandless is working hard to publicize Suitt's record on the ALRB and has picked up endorsements from the Western Growers Association and the Farm Bureau. Suitt is opposed to the Chavez-sponsored initiative that would enact a farm-labor law even more distasteful to most farmers than the existing legislation. This may not erode farm-worker support because the Chavez followers have no other place to go, but they could forget to vote altogether.

Suitt's long suit may prove to be his high-level connections in Sacramento. Clearly Assembly Speaker Leo McCarthy wants Suitt around as part of his majority, and the freshman lawmaker's appointment to the powerful Ways and Means Committee was the latest evidence of the leadership's interest. The Ways and Means post may help Suitt's Sacramento image, but could mean little to local voters.

More important may be Suitt's connection with Jimmy Carter. No one challenged the Suitt claim to have been the first legislator to support Carter way back there in January when everyone else asked, "Jimmy Who?" A Carter campaign stop in the district — and a plug for Suitt — is possible. Also, Governor Brown was persuaded to speak at a Suitt fundraiser in September. What Suitt loses in farmer disenchantment, he makes up in a convincing appeal as a progressive-thinking "moderate" attuned to the social and economic problems of the day and positioned to do positive things for his constituents.

McCandless profits from voter habit (he was elected to succeed Seeley as supervisor in 1970 and reelected in 1974), but he has little identity outside Riverside County. This can hurt him in Imperial County especially, where Democrats out-register Republicans 12,600 to 8,000 and where Suitt maintains an active, district office. Except for those who have been out in the summer sun too long, the all-important 75th Assembly district race remains too close to call.

The author is editorial-page editor of the Palm Springs Desert Sun.

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California Journal Ballot Proposition Analysis

The fate of 15 ballot propositions – two controversial initiatives, three bond proposals totaling $900 million and 10 other measures placed on the ballot by the Legislature – will be decided by California voters on November 2nd. This **California Journal** *special report contains a description and analysis of each measure, with special emphasis on the two initiatives: Proposition 13 to legalize greyhound racing betting in the state, and Proposition 14 to enact a farm-labor law, slightly different than the one already on the books, sponsored by Cesar Chavez' United Farm Workers. A majority vote is sufficient to enact any proposition, including bond issues.*

Reprints available

Additional copies of this special report are available at the following rates: Single copies, 75¢ each; 2-10 copies, 50¢ each; 11-99 copies, 40¢ each; 100 or more copies, 30¢ each. Please add 6% sales tax to all orders.

Write to Journal Proposition Booklet, 1617 10th St., Sacramento 95814. Postage is free on all prepaid orders.

1 HOUSING BONDS

This bond proposal would provide $500 million for the construction and rehabilitation of homes for low- and moderate-income Californians.

BACKGROUND: The 1975 Legislature created the California Housing Finance Agency to develop housing for low- and moderate-income Californians through direct loans and loan insurance. The agency is authorized to make mortgage or construction loans for new buildings. Loans can also be made for the purchase or rehabilitation of homes in deteriorating areas where loans are not generally available (so-called red-lined areas).

The funds for this program would come from the sale of three types of bonds: $300 million in tax-exempt revenue bonds, $150 million in federally guaranteed taxable revenue bonds, and $500 million in state general-obligation bonds. If this proposition is approved, the agency can start selling the general-obligation bonds. Public approval is not required for the sale of revenue bonds.

Revenue bonds must be retired through the repayment of loans. There is no public obligation to meet any defaults. However, the public is obligated to retire the general-obligation bonds if loan repayments do not produce sufficient revenue to do so. The $500 million from the G.O. bonds would be used to repay a $10 million loan from the state general fund which provided the revenue-bond reserve, to provide $50 million for the loan insurance program and to make about $460 million available for mortgage and construction loans.

ARGUMENTS: The proponents, which include Governor Edmund G. Brown Jr. and Attorney General Evelle J. Younger, claim there are two main reasons why the measure should be approved: Homes now being built by private industry are too expensive for the average family, therefore, a state program is needed to help the elderly and moderate-income Californians; and that a measure of this

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type is needed to provide jobs and help stimulate the housing industry. Brown and Younger maintain that the program will be as safe as the Cal-Vet home program, which has paid off all its debts without the necessity of special taxation revenues for 54 years. They claim the proposition will create about 30,000 new jobs and will improve property values in the declining neighborhoods of California cities.

The opponents, including state Senator H. L. (Bill) Richardson and Assemblyman Robert C. Cline, charge that Proposition 1 is a "boondoggle" that would result in the construction of only 13,000 homes. They warn that if the program is not run soundly, it will result in a general tax increase for Californians. "Can middle-income families qualify for loans under this program?" they ask. "Yes, if they move into low-income or slum neighborhoods." They argue that the measure would require the agency to conduct a search for disadvantaged minority workers, which would hurt local construction workers. They also predict that there will be a drastic decrease in property values for those communities where the agency builds inexpensive, low-income housing.

2 PARK BONDS

This bond proposal would provide $280 million for the acquisition and development of state and local parks and recreational facilities.

BACKGROUND: This is the third bond proposal in a series that the Legislature has requested to finance the acquisition and development of park and recreation facilities. (Similar bond issues totaling $400 million were approved in 1964 and 1974.) This proposed bond issue would emphasize acquisition of coastal property with the proceeds allocated under the following formula: grants to local government, $85 million; state acquisition and development of coastal recreation sites, $120 million; enlargement and improvement of the state park system, $34 million; development of recreational facilities at Lake Elsinore and at state-water-project sites, $26 million; acquisition and development of property for wildlife management, $15 million. The general-obligation bonds would be repaid by the state general fund.

ARGUMENTS: Three main arguments have been presented in favor of this proposition by its supporters, who include former Governor Edmund G. Brown Senior and Melvin Lane, chairman of the Coastal Zone Conservation Commission. First, California's present parks, beaches and other recreational facilities are overcrowded. Second although desirable lands are expensive, they may be impossible to obtain if the state waits any longer. Third, the proposition will help preserve the environment and insure that this generation and those that follow will have enough public parks to enjoy, especially along the coast.

State Senator H. L. (Bill) Richardson, who wrote the voter's pamphlet argument against the proposal, claims half the state's land is already in public ownership and that this bond issue is a step toward purchase of the other half. He argues that the proposal will take land off the tax rolls, thus raising property taxes for everyone. "California needs more government-owned land," he wrote, "like it needs an epidemic of swine flu."

3 SOLAR-ENERGY BONDS

This bond proposal would provide $25 million for low interest loans to individuals installing energy insulation or solar heating-and-cooling devices in their homes.

BACKGROUND: This proposition is designed to help promote the development and installation of solar-energy devices for the heating and cooling of California homes. It would become effective only if the companion enabling measure, Proposition 12, is also enacted. The $25 million in general-obligation bonds would be made available in a loan fund to those who wish to insulate their homes or install solar devices. Solar devices reportedly are not expensive to install, and this program would provide funds at below-market interest rates. Loan guidelines would be set by the state Energy Resources, Conservation and Development Commission, and the program would be administered by the California Housing Finance Agency.

ARGUMENTS: This measure is being offered as an energy-conservation measure needed to reduce the state's consumption of natural gas and oil. Solar systems, it's argued, pay for themselves in lower fuel bills, and home insulation saves energy used for heating. This loan program, proponents say, is needed to help families meet the

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initial cost of solar systems and to help bring more efficient energy devices into the market.

State Senator H. L. (Bill) Richardson, author of the voter's pamphlet opposing argument, claims this proposal is "a welfare program to buy air conditioners for rich people." He emphasizes that it discriminates against renters because it is available only for buildings with four units or less.

4 U.C. BIDDING

This proposed constitutional amendment would allow the Legislature to specify the competitive bidding procedures at the University of California and would prohibit U.C. from denying admission to anyone because of race, religion or ethnic heritage.

BACKGROUND: The California Constitution now gives the Legislature only limited fiscal controls over the University of California. This measure would allow the Legislature to specify competitive-bidding procedures for U.C. in awarding construction contracts, selling real estate and purchasing materials and services. It would also prohibit the University from excluding students on the basis of race, religion or ethnic heritage. This second provision is already covered by federal law; the main controversy is over competitive bidding.

ARGUMENTS: State Senator John Stull, author of the proposition, claims this proposal would have no effect on the academic freedom of the University, but is designed to guarantee that competitive-bidding procedures now in effect for all other agencies of state government also apply to U.C. He maintains that the University has on occasion violated its own bidding procedures. The measure is backed by the construction industry, which is upset by U.C.'s use of its own employees on construction projects in excess of $50,000.

University President David S. Saxon maintains that the measure is unnecessary because U.C. Regents now require that virtually all contracts over $2,500 be put to bid. He adds that it is undesirable because a rigid law would cost the public more by putting work, now performed at low cost by university employees, out to bid. He emphasizes that it is unwise because it would abrogate the traditional independence of the University from political interference.

5 INTEREST-RATE LIMIT

This proposed constitutional amendment would revise the California usury law so that interest rates on some business loans could exceed 10 percent under limited conditions.

BACKGROUND: This measure is identical to last June's Proposition 12, which was rejected by the voters. The Legislature decided to place the proposal on the ballot again, believing that the complexity of the issue was one reason for its failure.

This proposition is written to have no effect on the normal sources of consumer loans: savings and loan associations, banks, credit unions, industrial loan companies, pawnbrokers, agricultural cooperatives and personal property brokers. These lenders are already exempt from the usury laws. It would apply only to other lenders, such as individuals, insurance companies and mortgage bankers; and only to business loans. The current maximum rate for these lenders is 10 percent. The proposition would allow the rate to rise to seven percent plus the prevailing federal reserve rate. Currently, this would raise the maximum to about 12½ percent. The measure was designed to raise interest rates only on certain corporate transactions, not on normal consumer loans.

ARGUMENTS: The proponents claim that California's obsolete 10-percent limit does not keep interest rates down. Instead, it forces California lenders to place their funds out of state, and also induces out-of-state lenders to reduce the flow of capital into California. This stifles business expansion, and during the 1974-75 inflationary period cost California 20,000 jobs, argue sponsors. As a result of this shortage of capital, they say, consumers pay higher prices because of reduced productivity and because business must tap them for investment funds. This measure, the proponents say, will provide a flexible and realistic interest system that will allow business to get the capital it needs.

Legislative opponents, including Assemblyman John J. Miller, claim this measure will have adverse effects on the consumer. First, Miller maintains, this measure will dry up the consumer-loan market by funneling available money to big business. Secondly, the increased cost of business capital will be passed on to the consumer in the form of higher prices.

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6 GOVERNOR'S VETO

This proposed constitutional amendment would give the governor 30 days instead of the current 12 to decide whether to veto a bill following the Legislature's recess in odd-numbered years (the first year of the two-year session).

BACKGROUND: The state Constitution now gives the governor 12 days to decide whether to veto or sign bills, except at the end of a two-year session when the governor has 30 days. This proposal would also give the governor a 30-day period to handle the flood of bills after the Legislature's recess at the end of the first year of a session. It also would make some adjustments in the referendum procedure in an effort to have bills go into effect on January 1st following enactment.

ARGUMENTS: The proponents claim this is a minor housekeeping measure designed to give the governor enough time to examine issues and make a thorough review of each bill. The right of referendum is protected, the sponsors claim, by providing 90 days for the collection of signatures if those seeking to put the issue to the public notify the attorney general by January 1st.

Assemblyman Robert Burke, who wrote the voter's pamphlet argument against the measure, has no argument with the 30-day provision. But he claims that the right of referendum would be jeopardized in cases where legislation is passed near the end of the year and there is only a short time before they are scheduled to go into effect on January 1st.

7 DISCIPLINING JUDGES

This proposed constitutional amendment would revise the state's system of removing and censuring judges.

BACKGROUND: The state Constitution now provides for a seven-member Commission on Judicial Qualifications to recommend to the Supreme Court the removal, retirement, reprimand or suspension of judges for improper behavior, intemperance or failure to perform their duties. This proposal would change the name of the commission to the Commission on Judicial Performance and give it expanded powers. It also would establish a court of seven appellate judges, drawn by lot, to hear charges against a Supreme Court justice.

ARGUMENTS: Sponsors of this measure claim current law is too restrictive because willfulness must be shown in order to take disciplinary action based on persistent failure or inability to perform duties. This proposition, they add, will allow the commission to take action against those who are well-intentioned, but who may not be doing an acceptable job because of age, health or incompetence.

There is no organized opposition to this measure, but it has been argued that there is no reason to change the Constitution when the present disciplinary system seems to be working well.

8 SCHOOL SUPERINTENDENTS

This proposed constitutional amendment would authorize selection of county school superintendents in all counties either by election or appointment.

BACKGROUND: Voters in charter counties may now decide whether the county superintendent of schools should be appointed or elected. This measure would extend that option to non-charter counties. The proposition would allow voters of two or more counties to establish a joint counties board of education and superintendent of schools. It also would give county boards of education, instead of the Legislature, the power to set salaries for county superintendents. This proposal would have no direct effect on city school boards or local superintendents.

ARGUMENTS: Assemblyman Leroy Greene, sponsor of the proposition, described the measure as an attempt to encourage closer cooperation between county boards and county superintendents. This, in turn, will allow county offices of education to run more efficiently, thus improving the quality of education, according to Greene.

Assemblywoman Pauline Davis, one of the legislative opponents, claims that this proposal would allow county boards to raise superintendents' salaries at will. She also argues that two counties in different parts of the state could decide to merge education offices, and parents might have to travel hundreds of miles to attend school board meetings.

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9 CONFIRMATION OF APPOINTEES

This proposed constitutional amendment would require both Assembly and Senate confirmation of gubernatorial appointees to fill vacancies in state constitutional offices.

BACKGROUND: Currently, the governor fills vacancies in the offices of lieutenant governor, attorney general, secretary of state, controller, treasurer, superintendent of public instruction and board of equalization posts without legislative approval. This proposition would require that the governor's appointee to vacancies in any of these offices be approved by a majority of both the Senate and Assembly. The Legislature would have 90 days to accept or reject the nominee, or the person would assume office.

ARGUMENTS: Legislative proponents of this measure claim it is only reasonable that an individual who might fill such a high office without an election sould be considered by as wide a representation of the public as possible. The quickest and most economical way to do this is through submission of nominees to the people's representatives in the Legislature. This proposition, they add, is modeled after the XXVth amendment to the United States Constitution, which was used when Gerald Ford and Nelson Rockefeller were appointed vice president.

Assemblyman Mike Antonovich contends that this proposition would result in a political football game between a governor and the Legislature. "The simple act of filling a vacancy could assume monstrous proportions if the Senate or Assembly could not reach agreement regarding a candidate acceptable to both," he said. Antonovich said the appointment process would be particularly difficult when the governor and the legislative majority represented different parties.

10 DISTRICT TAXATION

This proposed constitutional amendment would prohibit a new multi-county special district from levying a property tax without prior approval from the voters.

BACKGROUND: Under current law, newly formed local public agencies cannot impose a property tax without approval of the electorate. However, the Legislature may create a special district, including all or parts of two or more counties, and authorize a property tax levy without voter approval. This measure would prohibit the levying of any property taxes in these multi-county districts without approval of the electorate.

ARGUMENTS: There is no organized opposition to this measure, which was placed on the ballot to eliminate a loophole in the property tax law.

11 EQUALITY OF TAXATION

This proposed constitutional amendment would guarantee taxation of portable property on the same basis as land and buildings in the event the Legislature changes the assessment ratio.

BACKGROUND: This measure, which had no opposition during its run through the Legislature, is designed to eliminate a possible technical problem in the administration of the property-tax law. County assessors now employ a 25-percent-of-value assessment ratio in establishing the tax rolls. Present law now makes a distinction between secured property, such as land and buildings, and unsecured property, such as inventory and furnishings. The previous year's tax rate is applied to the unsecured roll, and this year's rate is used for the secured roll. This is designed to prevent evasion of taxation. But, if the Legislature decides to change the 25 percent ratio, present law would not allow a change in the taxation of the unsecured roll at the same time as the change would go into effect for the secured roll. This measure is designed to maintain taxation parity between the two types of property should the assessment ratio be changed.

ARGUMENTS: Proponents of the measure claim it will merely give the Legislature more flexibility and will not lower or raise anyone's taxes. There is no organized opposition.

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12 SOLAR-ENERGY LOANS

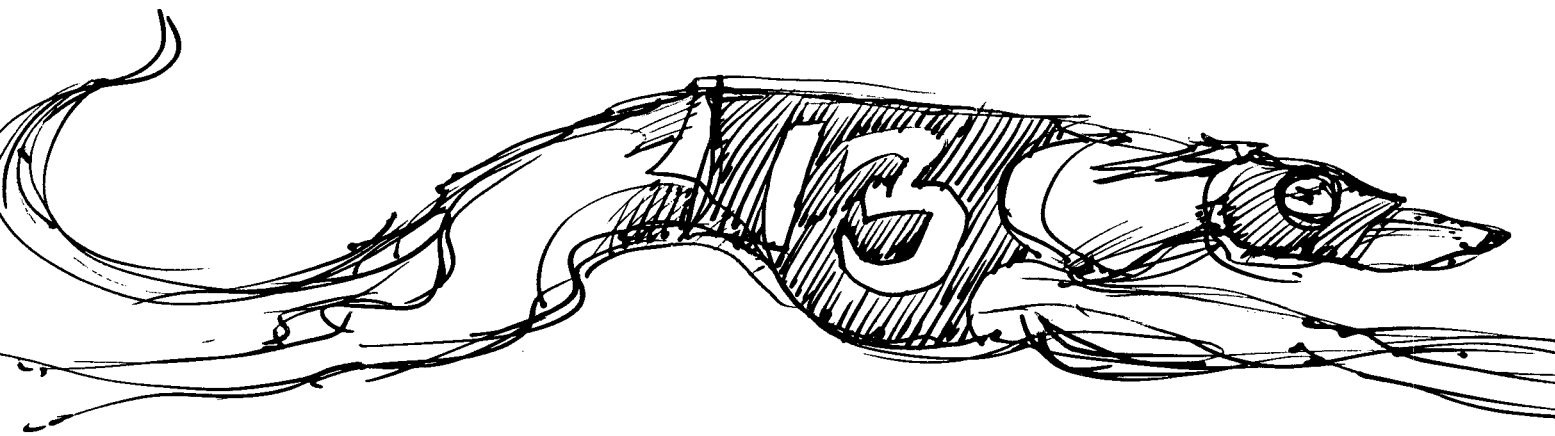
This proposed constitutional amendment would implement Proposition 3 by authorizing low-interest state loans for residential insulation and solar heating-and-cooling systems.

BACKGROUND: This is the enabling act for Proposition 3, the $25 million solar-energy bond proposal. If Proposition 3 is approved, this measure must also pass before the state can make low-interest loans to families installing solar heating-and-cooling devices. This is because the state constitution prohibits a gift of public funds to a private party, and the proposed program of loans at below-market interest rates might be interpreted as such a gift.

ARGUMENTS: The pros and cons on this measure are basically the same as on Proposition 3.

13 GREYHOUND RACING

This initiative proposal would establish a state commission to license and regulate greyhound racing and legalize track betting in California.



BACKGROUND: Under current law, betting on greyhound racing is prohibited in California. (State-licensed horseracing with pari-mutuel wagering at race tracks is permitted.) This proposition would legalize greyhound racing and would establish a five-member California Greyhound Racing Commission to regulate the new industry, including the licensing of participants and distribution of racing days. Betting would be legal only at dog tracks.

The initial commission would be composed of appointees of the governor, lieutenant governor, chairman of the Legislature's Joint Rules Committee (now Assemblyman Leon Ralph), and the Assembly Governmental Organization Committee (currently Assemblyman Bob Wilson), plus one member chosen by the governor from a list of at least six names submitted by a greyhound organization solely active in dog-racing for at least two years prior to the vote on the initiative. Starting in 1979, a new commission composed entirely of gubernatorial appointees would replace the initial commission.

The proposition does not specify how many greyhound tracks could be established in the state, but there could be only one in each county. The maximum number of total racing days at all tracks would be 875 per year, plus a limited number for charitable purposes. A formula for distribution of racing days is included in the measure, and the days are heavily weighted toward Southern California.

The split of the pari-mutuel dollar would be as follows: 84.25 cents to holders of winning tickets, 7.25 cents to the association conducting the races, 6 cents to the newly created state Greyhound Racing Fund, and 2.5 cents to owners and breeders of winning dogs. The revenues from the six percent state license fee would be used to support the racing commission, for distribution to local government and to support 13 programs specified in the measure. None of these state revenues would be deposited in the state general fund.

Legislative Analyst A. Alan Post has estimated that, based on experiences in other states, the state revenue could run between $45 million and $75 million a year if all the racing days were used. The Legislature would be allowed to distribute 25 percent of the state share to cities and counties in which greyhound races were conducted. These allocations would be in lieu of local parking or admission taxes on greyhound races for the first 10 years after the initiative becomes effective.

The remaining state revenues would be allocated to new state special funds for the following purposes: 15 percent for high-school athletics, 10 percent for child development, 15 percent for senior-citizen transportation and nutrition, 15 percent for handicapped children, 10 percent for childhood-disease programs; 10 percent for juvenile-

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deliquency and child-abuse prevention, three percent for a deaf children's fund, six percent to a blind relief fund, five percent each for heart and cancer research, five percent for bilingual education and one percent for a retirement farm for racing greyhounds.

The Greyhound Racing Commission would accept applications for licenses between December 3rd and 15th of this year. If no application is received for an eligible county, the deadline could be extended. Public hearings would be held on applications prior to the award of licenses.

This initiative measure was placed on the ballot through the efforts of George G. Hardie, head of the Golden Gate Greyhound Association, after he failed to get a similar measure approved by the Legislature.

ARGUMENTS FOR: Hardie, who has been the prime target for those opposing the initiative, estimates that greyhound racing will provide at least $60 million a year in new state and local revenues and, thus, will provide some general tax relief. He argues that until now it has been the efforts of horseracing and Nevada casino gambling interests that have prevented the Legislature from legalizing gambling on dog races. This measure, he exphasizes, will give each Californian the right to choose whether he or she wishes to attend dog races.

Hardie maintains that thousands of new jobs will be created through the construction and operation of dog tracks and that at least $100 million in private capital will be spent on these facilities. Greyhound racing, now legal in nine states including Arizona, is the seventh most popular sport in the United States, according to Hardie.

During the legislative debate over the greyhound bills, the opponents declared that the sport is inhumane. Hardie points out that the initiative contains humane safeguards. It would be a crime to train a greyhound with any live animal or to destroy a dog at the end of its racing career. Funds are included in the measure, he adds, to create a greyhound retirement farm.

The proponents, including James S. Lee, president of the Building and Construction Trades Council, say that there are provisions in the measure to guarantee that only individuals with scrupulous backgrounds can participate.

In response to charges by opponents that the measure is designed primarily to enrich Hardie and his associates, the chief sponsor contends that he is entitled to some return for the four years and financial resources he has put into the greyhound campaign. Hardie adds that if he gets the license to operate a track in Los Angeles County, it will only be because he has more knowledge and ability in the field than any potential competitor.

ARGUMENTS AGAINST: The opposition is directing most of its fire at George Hardie, although it also has presented arguments against the institution of dog-racing as well. Among the opponents are Sheriff Peter Pitchess of Los Angeles County, Mayor Pete Wilson of San Diego and Wilson Riles, state Superintendent of Public Instruction.

They claim the initiative is a hoax designed to give Hardie and his backers a virtual monopoly on dog racing in California. They charge that the composition of the initial commission is designed to guarantee that Hardie will control three votes and thus get what he wants from the panel. Otherwise, they say, why didn't Hardie give all five appointments to the governor from the start?

The opponents charge that the promoters will make at least $55 million a year if the measure is passed, while there will be no fiscal benefit to the state. The funds that are provided the state, they claim, cannot be used for general purposes, and the additional administrative and law-enforcement costs will leave the taxpayers with increased burdens.

Even if the public does not object to greyhound racing, the opponents argue, this measure should be defeated because it will enrich Hardie and give him a virtual monopoly over the industry. Profits for those running dog tracks, they contend, would exceed those now received by operators of horse tracks.

Pitchess and other law-enforcement officials have emphasized that greyhound racing was legalized in California four decades ago and became so corrupt that it was abolished. Pitchess feels that communities with dog tracks will become subject to increased burglaries, bookmaking, loan sharking and other underworld activities. Dog racing also would give organized crime an opportunity to obtain a foothold in California, according to Pitchess.

Greyhound racing, the opponents argue, is characterized by inhumane treatment of greyhounds. About 80 percent of the dogs bred for racing are killed before they ever see a track, according to the national Humane Society.

Hardie also has come under attack from opponents because of his prolonged battle, in and out of court, with the state Fair Political Practices Commission over Proposition 13's financial records.

14 FARM LABOR

This initiative proposal would reenact the Agricultural Labor Relations Act of 1975 with some alterations and with the direction that the Legislature appropriate the necessary funds for implementation.

BACKGROUND: The Agricultural Labor Relations Act of 1975 establishes a system giving farm workers the right to select unions to represent them in bargaining with employers. These rights are similar to those held by nonagricultural workers under the National Labor Relations Act. The California law created a five-member board and a general counsel to hold elections and to take action against unions and employers engaging in unfair labor practices. The board also establishes rules and regulations for implementation of the act.

The Agricultural Labor Relations Board ran out of money in February, and its program ground to a halt because the Legislature did not immediately provide additional funds. Growers urged the Legislature not to approve a supplementary appropriation unless changes were also made in the basic law. Governor Brown and key legislative

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leaders refused to change the law. The United Farm Workers, headed by Cesar Chavez, then started circulating initiative petitions to reenact the law with several changes, and to direct the Legislature to provide the necessary funds for the board. Within 29 days, Chavez had obtained enough signatures to qualify the measure for the ballot.

After the measure qualified, the Legislature passed a 1976-77 budget with an appropriation for the board, which subsequently went back into business with new personnel. This proposal would reenact the 1975 act but with several changes generally favorable to the sponsors of the initiative:

- The regulation allowing union organizers to enter an employer's property for three specified hours each day would be written into the law. This "access rule" has been one of the most controversial elements of the ALRB dispute.
- The ALRB must make lists of employees available to those who file notices of intention to file for representation elections. These lists would be obtained from employers to determine worker eligibility to vote.
- The board would be authorized to order payment of treble damages in unfair-labor-practice cases.
- It would be made more difficult to decertify a union which has previously won a bargaining election. Decertification elections would require the signatures of 50 percent of the workers rather than the present 30 percent.
- The Legislature would be directed to appropriate enough money to allow the board to do its job. This provision would not bind the Legislature to any specific amount. The current appropriation is $6.7 million. The level of funding in future years would be determined by the governor and the Legislature through the regular budget process, according to Legislative Analyst A. Alan Post.

ARGUMENTS FOR: Cesar Chavez, the prime sponsor of the measure, claims this measure is necessary to guarantee that farm workers are never again deprived of their right to vote on representation elections. He claims the 1975 law was successful. Yet, early this year, he emphasizes, after losing 93 percent of the elections, growers demanded crippling changes in the law before legislators provided money so that the elections could continue.

The farm workers' only alternative, according to Chavez, was to "by-pass the politicians in Sacramento" and go directly to the people. The ALRB was funded in this year's budget, he argues, only because agribusiness fears Proposition 14. If this measure is defeated, he predicted, growers next year will block ALRB funds and the board will become defunct once again.

Chavez defends the access rule which the measure would write into the law by pointing out that it has been upheld by the state Supreme Court and allows organizers to speak with workers on farm property only during non-working hours.

The proponents explain that the funding provision is intended primarily to show the legislators that the people want the agency to receive enough money to operate. The Legislature retains final authority over appropriations, Chavez says.

ARGUMENTS AGAINST: The principal spokesman against Proposition 14 is Harry Kubo, president of the Nisei Farmers League. He maintains that the proposal is a hastily conceived and fiscally irresponsible abuse of the initiative process because the gains which Chavez seeks are already being provided under the 1975 law.

The issue, he says, is not whether farm workers should have the right to decide which union, if any, should represent them, but whether the law will be operated under the responsible eye of the Legislature. The opponents point out that labor law must respond to changing needs, and this initiative ties the hands of the Legislature to make modifications.

Another issue raised by the opposition deals with the fiscal provision in the measure. Kubo says the provision is an apparent attempt at blank-check financing for an agency that overspent its first-year budget in less than six months. Thus, he says, the proposition is fiscally irresponsible.

The opponents argue that the access rule, which they call "infamous," is still under judicial challenge in the United States Supreme Court and should not be made a permanent part of the law. This initiative, they claim, allows an invasion of private property even when organizers engage in "disruptive conduct." This, they conclude, is "a fighting and dangerous precedent leading to further erosion and destruction of the property rights of all citizens."

15 CHIROPRACTIC EXAMINERS

This proposal adds two public members to the state Board of Chiropractic Examiners and increases educational and licensing requirements for chiropractors.

BACKGROUND: This measure is on the ballot because it would amend an initiative previously approved by the voters. The proposition would increase the membership of the state Board of Chiropractic Examiners from five to seven, with the two new members to be appointed by the governor from the consuming public. The measure also would require chiropractic schools to be accredited by the Council on Chiropractic Education, require two years of college prior to entry into a chiropractic college, and would authorize the state board to use results of national chiropractic tests in lieu of state board tests. The addition of the two public members was requested by the chiropractic profession, in effect, beating the Legislature to the punch. It is the only profession to have requested legislation for the addition of public members to its governing board.

ARGUMENTS: Proponents of this proposition, including the California Chiropractic Association and the Board of Chiropractic Examiners, claim it will give consumers a direct voice in matters of health and will guarantee high scholastic requirements for admission to chiropractic colleges.

Some chiropractic doctors are opposing the measure because they feel that the new requirements are unnecessarily stringent.

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Why environmentalists prefer Carter to Brown (or Ford)

By LARRY MOSS

Governor Brown came to office singing a campaign refrain from the environmentalist songbook. Yet, when Brown ran for president, many key California conservation leaders supported Jimmy Carter. These same environmentalists are now traveling to other states to campaign for Carter against President Ford. Larry Moss, executive director of the Planning and Conservation League and a former Brown Administration resources executive, explains in this article why conservationists are hot for Carter, lukewarm about Brown and cold to Ford.

Carter — Outstanding
Brown — Good
Ford — Hopeless

The evaluations of three of the principal candidates in this year's presidential primary sweepstakes were made by the national League of Conservation Voters. The ratings, which were based upon the conservation records and campaign pledges of the candidates, explain some of the surprises in the California primary. They are also a good indication of how conservationists will vote this November.

The League of Conservation Voters is a national non-partisan organization which evaluates environmental voting records, endorses candidates for some congressional races and, every four years, analyzes the accomplishments and pledges of the major presidential aspirants. The steering committee of the League consists of leaders from major environmental organizations such as the Sierra Club and Friends of the Earth. The League's rating is the closest thing to an important endorsement conservationists have to offer.

The League also evaluated the other presidential candidates as follows: Morris Udall, outstanding; Frank Church, fair/good; Hubert Humphrey, fair; Henry Jackson, fair/mixed; Ronald Reagan, bad; George Wallace, hopeless. Given the Republican candidates, ratings, most conservationists concentrated on California's Democratic presidential primary. Jimmy Carter, the national frontrunner, and Jerry Brown, an extremely popular Governor, drew much of the attention, with some interest in Udall and Church.

One of the surprises of the campaign was the endorsement of Carter, early in the campaign, by some prominent California conservationists despite the fact that Brown was the acknowledged frontrunner in the race. Carter won these endorsements because of the following factors:

- Carter had an excellent record on conservation and environmental and natural-resource management when he was Governor of Georgia. His campaign stands on these issues appealed to environmentalists.
- Brown entered the race for the presidency at a late date and many didn't perceive him as a "real" candidate.
- Brown had only been Governor for one legislative year at the time of the presidential primary. The record of his Administration was mixed on the energy commission, forest practices, the Redwood National Park, and the New Melones reservoir, while his position on such critical California issues as coastal management, agricultural-land preservation, and regulation of nuclear power plant development was unclear.

Carter's record

Carter's style of active leadership when he was Governor of Georgia appealed to conservationists. Carter is credited with leading the Georgia legislators out of the dark ages and successfully prodding them to enact measures protecting that state's outstanding rivers, marshes, coastline, and other natural areas, despite the vehement opposition of Lester Maddox, the former Governor of Georgia who served as Speaker of the Georgia Senate during Carter's term.

Carter actively, and successfully, fought the federal government when its bureaucracies tried to dam and channelize Georgia's rivers. Perhaps Carter's most courageous act was the blocking of the construction of the Sprewell Bluff dam proposed by the

SIR, HOW DO YOU FEEL ABOUT CONSERVATION?
CAN'T GROW GOOBERS UNDER A FREEWAY!
THE FLOW OF REALITY OF SPACESHIP EARTH SHOULD BE VIEWED AS EMERGING CONSCIOUSNESS... BUT YOU CAN'T EXPECT
UH... WHAT WAS THE QUESTION?
Coke

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Army Corps of Engineers on the scenic Flint River. Carter came to California in 1974 to campaign against the construction of the New Melones project on the Stanislaus River.

In 1972, Carter warned of the impending energy crisis and created Georgia's State Energy Office, which handled fuel allocation and gave advice on energy conservation. As a result, Georgia was far ahead of other states in obtaining needed oil and gas supplies when the Arab oil embargo occurred. Carter developed and enacted a program of state land acquisition for parks and reserves, public recreation, wildlife and historic sites, and also supported the establishment of the Cohutta Wilderness and the Cumberland Island National Seashore federal programs.

Brown's improving image

The reaction of California conservationists to Brown's presidential bid was more ambiguous. Brown campaigned on lowering expectations, more responsible use of natural resources, and planetary reality, but his Administration's mixed performance implementing those concepts hampered his ability to draw active conservationists to his cause. At the time of the California primary, the Brown Administration's success in winding down freeway construction and the record of his Air Resources Board were viewed as the best aspects of Brown's record. But his timid performance on forest practices, enlargement of the Redwood National Park, and the construction of the New Melones reservoir coupled with the pro-nuclear and pro-development views of a majority of the Energy Commissioners puzzled many conservationists.

Since the presidential primary, Brown's stature with environmentalists has grown. The Governor lent substantial help to the passage of the coastal conservation bill, and he recently appointed John Bryson chairman of the State Water Resources Control Board and Gene Varanini to the Energy Commission. Secretary of Resources Claire Dedrick has indicated she supports a reasonable expansion of the Redwood National Park on Redwood Creek. If Brown can develop or effectively support programs to protect California's prime agricultural land, regain state control of water-resource development in California, and establish state land-use policies which assure that scarce resources are conserved, California conservationists will undoubtedly be in Brown's camp the next time he hits the campaign trail.

Carter, Udall and Brown all spoke extensively on environmental and natural-resource issues during the primary campaign, and they ran 1-2-3 in the delegate count in New York this summer. Ford and Reagan devoted little of their campaign time to environmental issues with one exception — both campaigned for the inclusion of North Carolina's New River in the federal Wild and Scenic River System. California is a pivotal state for Ford, and could be very important for Carter. Conservation sentiment runs strong in the state, and the differences between the two candidates on natural-resource issues could be very important if the environmentalist vote is strong this year.

When Ford assumed the office of President, the first action he took regarding wildlife was to give Soviet Premier Leonid Brezhnev a wolfskin coat as a goodwill present. The Secretary of the Interior had already put wolves on the endangered species list. In return, Brezhnev gave Ford and his entourage some whalebone carvings, which were gratefully accepted. However, since whales were also on the endangered list, importation of the carvings into the country was illegal, and customs officials later confiscated the Soviet gifts. From an environmentalist viewpoint, this story symbolizes the record of the Ford Administration.

The Ford Administration has sought to weaken existing air and water pollution control laws; opposed any meaningful legislation to control the introduction of toxic substances into the environment; has supported or implemented crash programs for development of the breeder nuclear reactor, offshore oil, synthetic fuels from coal or oil shale, and strip-mined coal regardless of the cost or feasibility; and has twice vetoed legislation which would have set standards for the strip-mining of coal and the reclamation of areas mined by this method.

Ford's active opposition

Until very recently, Ford has opposed the federal purchase of any new parks or recreation areas, and his Administration has failed to approve measures or appropriations to safeguard or enlarge the Redwood National Park in northern California. While talking fiscal economy, Ford has given the Bureau of Reclamation and the Army Corps of Engineers the largest budgets they ever received. In 1975, Ford put back into the federal budget all of the destructive water resource development projects which the Office of Management and Budget had cut out, including the Tennessee-Tombigbee channelization and barge canal in the southeast, the Oake Diversion project in South Dakota, the Dickey Lincoln Dam in Maine and full funding for the controversial Auburn and New Melones Dams in California. Ford's record has little to offer conservationists. He will have to develop some very different programs between now and November, if he is interested in their support.

Carter's views run counter to Ford's on most environmental issues. Carter is skeptical of big federal subsidies for energy and water resource development. He has denounced the Ford plan to subsidize commercialization of synthetic fuels from coal and oil shale because the subsidies would "divert capital away from the production of useful energy, and create even more pressure to raise the price of all energy." Carter favors a drastic curtailment of the dam building activities of the Army Corps of Engineers, the Bureau of Reclamation, and the Soil Conservation Service, and has said that "at a time when the whole country is concerned about inflation and high taxes, we don't need to spend tens of millions of dollars for the purpose of perpetuating the Army Corps of Engineers."

Despite Carter's background as captain of a nuclear submarine under Admiral Rickover and his graduate work in nuclear engineering, he urges that "dependence on nuclear energy be kept to a minimum." Carter has come out for strict enforcement of the Clean Air Act, including the provision to protect against degradation of air quality in clean air areas, and opposes the relaxation of stringent water pollution control standards because the economic and health costs of pollution are already far greater than the costs of cleaning up.

Rarely are two political candidates for major public office so clearly separated on a range of issues as are Ford and Carter on natural-resource management and environmental issues. It remains to be seen how much effort Carter will make to exploit the difference between his views and Ford's, and what effect that difference will have on the result in November. Carter can have the sizable conservation vote in California if he can get across his positions. It will be interesting to see Ford's counter-strategy in California. He could try to compete for the conservation vote, he could attempt to cultivate the anti-environment vote or, most probably, he could ignore the issue. Governor Brown will be carefully watching the strategies and results with 1978 and 1980 in mind.

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Our Mojave Desert – the barren land of fraud

By WILLIAM GREENBURG

Alvin C. Meyer, 52, blind since childhood, is a symbol of accomplishment. He has degrees from USC and UCLA and is a treatment specialist for the mentally ill. Meyer, however, has become another kind of symbol.

He owns two virtually worthless 10-acre parcels of desert land in San Bernardino County and as of last February, he was making monthly payments on another two and a half acres of sage brush in Kern County.

Meyer is just one of an unknown number of people who live anywhere from the San Fernando Valley to Europe or Hong Kong, who have purchased California land at astronomically inflated prices, based on misrepresentation of the land's physical description, location and economic potential.

Leighton J. Peatman, senior deputy commissioner in the state Department of Real Estate, said that no one really knows the extent of land fraud activity in the state. "California still has the golden lure. They are still buying — from the rest of the country, from Asia, from Africa, and from Europe," Peatman remarked.

What type of land?

Instead of buying a chunk of sun-drenched paradise or potential paradise "in the path of progress," investors end up with property that is:

- *In the wash of a river bed or on the side of a steep mountain.*
- *In a military gunnery range.*
- *Miles from where it was represented to be.*
- *Land that has been sold over and over again to different people.*

Peatman said that the organizations which perpetrate these frauds have a pitch tailored for just about anyone. To the wealthy, they sell tax shelters and fly them in private planes to lavish dinners. For middle-income people, the pitch is long-term investment by continually turning over land to save for the children's education. And, for the least affluent, who are not immune to land fraud schemes, "it's a dollar down and a dollar a week," Peatman said.

The sales pitches have common threads. A specialized staff of researchers have picked out "this specific parcel which is just right for your needs, Mr. Jones." Indeed, it is the only parcel left like it, and there are several customers waiting." "It may not look like much now, but this is the area into which the metropolitan area will expand. It is in the path of progress."

Meyer, like many land buyers who have been interviewed, acknowledged he was foolish and should have investigated the property. But even people who have the benefit of sight and who live within a couple of hours drive from where their property is located, still buy sight unseen.

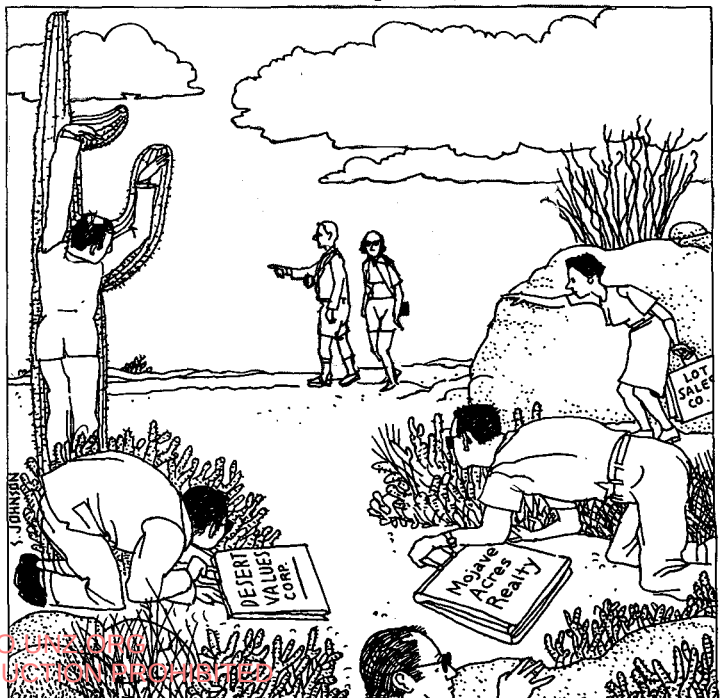
Leon Keding, assistant planning director for San Bernardino County, over the years a major target for land fraud, said that 95 percent of the purchases are made for investment only. "People we deal with buy for investment purposes," said Dennis Klimmek, deputy attorney general. "Most of the people who come into this office to complain did not buy to build a home — just to resell in a few years. They don't care what the land looks like."

Promises, promises

Referring to his San Bernardino purchases, Meyer said the company that sold him the land said freeways would be skirting the property. "They called it the iron triangle," Meyer said. Meyer also was told his property was close to the proposed Palmdale Airport. As the crow flies, it is about 56 miles from the proposed site.

Meyer purchased the San Bernardino property in 1968 on two unrecorded contracts of sale, the favorite vehicle for these kinds of transactions. The unrecorded contract allows a sale to escape the scrutiny of county government and, unlike the grant deed given to the mortgagee in a conventional real property purchase, involves no claim to legal title.

Meyer could have purchased the two 10-acre parcels for $6,500 each if he would have paid cash. "I paid $2,000 down and $130 a month for the two parcels," he confided. He



The author is an investigative reporter for the San Bernardino Sun-Telegram.

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purchased the two and a half acres in Kern County for $4,500 with a $500 down payment. As of last January, he was paying $40 a month on that property. The financial arrangement for these kinds of purchases are called leverage and pyramiding by land manipulators.

"Leverage" is sold to the potential customer by promising that after making a small down payment and with small monthly payments, the buyer will "control" a large piece of land. While the courts are now paying more attention to the plight of the contract land buyer, the purchaser actually controls nothing. Title does not pass on a contract of sale.

Stalling tactics

"Pyramiding" is a procedure where the land manipulator promises that the buyer will realize sizable resale profits on a piece of land that will turn over in a relatively short time, say three to five years. The manipulator says that he will resell the property at that time and the buyer can take out his original investment and use the profits to buy more land. Thus, the scheme continues.

In many instances, it does not happen that way. If a buyer wants to resell, the manipulator usually uses stalling tactics, saying it is not the opportune time. If a person is persistent, the manipulator will deny making a resale promise, and since there is nothing in writing, the allegation is hard to prove.

There are in existence, a number of books which have been advertised on television, radio and in newspapers, which outline leverage and pyramiding. One of these books is being used as evidence of such a sales pitch in a class action suit in Seattle on behalf of some 600 Washington state residents who purchased California land, mainly in the desert. The company that sold Meyer his property is the defendant in the Washington law suit. That company is also the subject of legal actions in California.

Meyer said that after he had been stalled in his attempts to have the San Bernardino County property sold, he decided just to pay it off. He paid $15,000 for the 20 acres, which has an actual value of between $50 and $150 an acre. When he paid off his property, Meyer received a grant deed for each 10-acre parcel. Subsequently he received another document. This was a notice of violation from the San Bernardino County Planning Department. The violation notice is a symbol of a complicating factor in land fraud.

When Meyer received his deeds, they were recorded. The county planning department was able to determine that in the area where his property was located, more parcels were created by a single business entity than are permitted by state law without county review. In other words, Meyer's two 10-acre parcels were part of an illegal subdivision.

The California Map Act of 1943, which has been strengthened by amendments over the years, basically says that anyone who creates or is responsible for creating five or more parcels of land from a single parcel, must submit the split for review. This is to insure that necessary improvements pertaining to flood control, access, utilities, water, and soil conditions are provided. Depending on the size of a subdivision and the required improvements, a developer may have to spend millions of dollars before any property in the subdivision can be offered for sale.

Illegal subdivisions

When an illegal subdivision is created, the Subdivided Lands Law has also been violated. This is a disclosure statute which requires a public report detailing all the features of a subdivision. This report must be given to a customer before a purchase is made. Consequently if a subdivision is illegal, there will be no public report.

San Bernardino County planner Mary Hartman has estimated there are 40,000 illegal parcels in the county, mainly in the desert. In testimony before the Assembly Local Government Committee last fall, Keding said that during the past five years, 25,000 parcels of land had been created in San Bernardino County, but only 11,000 parcels had been reviewed. Planning department official Frank Molina has said that 1,000 new parcels were created in the county in 1975, about 17 percent of them created under unrecorded contracts of sale. He said some of these may have been created by illegal splits, but until the planning department reviews them, there is no way of knowing.

County planning director Kenneth Topping told the county planning commission in June that 1,000 parcels annually were being created in violation of state law in San Bernardino County. Since the map act was strengthened in 1972, the planning department has stepped up its vigilance to uncover illegal land splits.

Land fraud and illegal splitting has gone unnoticed for years through the use of the contract of sale and through various intricate maneuvers known as four-by-fouring.

Four-by-fouring really five

Four-by-fouring consists of various methods whereby an individual or an organization splits land into five or more parcels, but make it appear that unrelated entities have created no more than four parcels in a land split. When such a scheme is discovered by a county planning department, the owners of record of the parcels at the time the discovery was made receive notices of violation. This means that in most instances the so-called innocent tag-end-buyer gets stuck. Although attempts have been made to ease the buyer's predicament, it is still difficult, if not impossible, to institute the required improvements.

Meyer said he didn't know what he would do about his property — whether to sue, let it go for taxes and take a loss, or hang on in the hope that it might pay off some time in the future. Meyer can sue to rescind the transaction and get his money back and for damages. But such suits are costly and time consuming — usually years. The cost of the litigation if the plaintiff cannot recover attorney's fees is usually more than the value of the property.

Another problem is that in many cases the original seller of the property may no longer be around. Also in many cases the seller declares bankruptcy, triggering a battle between contract vendees, holders of grant deeds, and trust deed holders. What this all means is that even if a suit is carried to a favorable judgment for a plaintiff, there is usually no money left to satisfy the judgment.

Meyer is not alone in his predicament. Besides the thousands of people like him, land fraud has left county governments with tax bases that have been thrown out of kilter. San Bernardino County assessor Bob Herbin said that four-by-fouring has affected the economics of desert land. Loyd Turner, a Lucerne Valley land dealer, said that "illegal splits have jacked up assessments."

Assessed values inflated

Turner said that in Lucerne Valley, an area that Herbin considers the focus of illegal subdivision activity, assessed value in 1975 was $30 million. He said in 1970 there were 10,800 property owners in 198 square miles of zoned land, "but only five percent of the community was inhabited. Last year (1974), there was a 61 percent average increase in assessed valuation on vacant land and the county was coming up with illegal subdivisions." Herbin said in some desert areas between the mid-1960's and the early 1970's assessments increased between 200 and 400 percent."

While property owners have suffered higher assessments, and contract vendees have been left holding worth-

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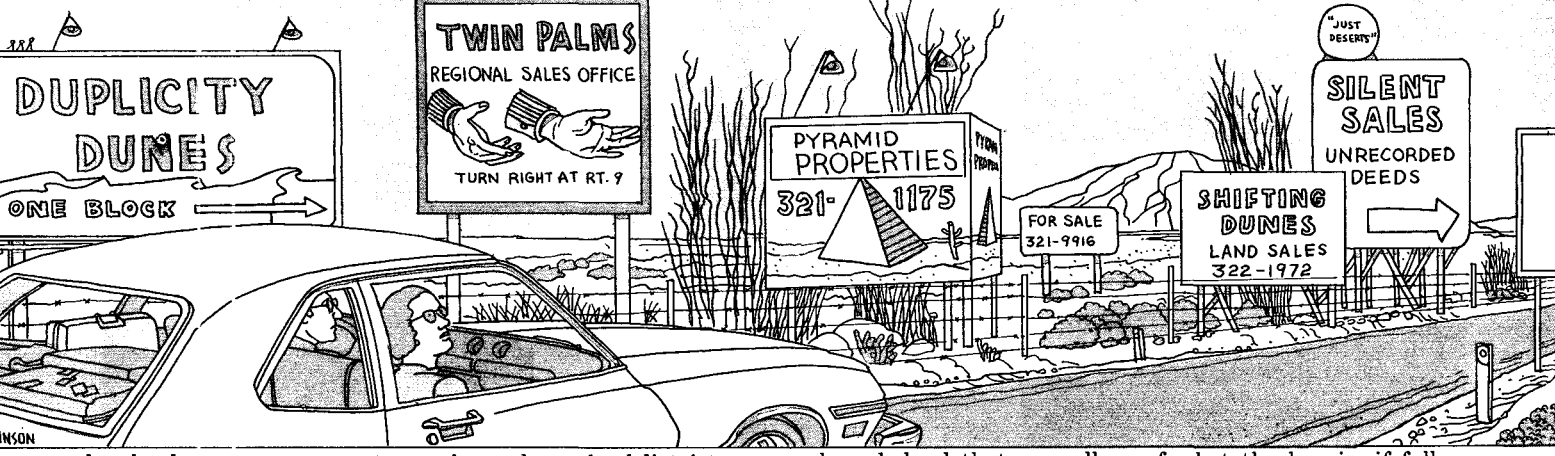

less land, some government agencies such as school districts reaped a windfall. But, now that the latest bubble has burst in land fraud activity, school districts are in trouble.

One desert school district in Helendale, between Barstow and Victorville, saw the assessed value it could tap increase from $1.6 million in 1969 to $8 million in the fiscal year ending June 30, 1975. For this fiscal year, its assessed valuation dropped to $5 million.

"What regulates market value is resale, and in the past few years as sales have dwindled, we are continuing to lower market value, because area realtors have proved to us there are virtually no resales," said Ken Roberts, Kern County assessor. "This does have a bearing on tax rates. Great drops in assessed value tend to increase the rate to take care of counties and other taxing entities," he said.

Palmdale airport ruse

Roberts is concerned that if publicity concerning Palmdale Airport starts up again, it will spill over into Kern County. "That publicity puts speculators to work," he said. "If Palmdale Airport ever becomes a reality, we will see another speculative boom, but it will be controlled by planning directors and environmental impacts. It will never be as bad as it once was."

Besides playing havoc with the tax base, land fraud and illegal subdivision activity have caused a clash between local government and real estate and development interests over what to do about the people stuck with the property. If the nearly year long debate in San Bernardino County is an indication, local government is scrambling to do what it can to see that this type of activity does not happen again, while real estate and development interests are trying to salvage what they can and, at the same time, avoid lawsuits.

Last summer, a small but vocal group of developers and real estate brokers called the Associated Desert Property Owners started a move to change both the county subdivision ordinance and the state map act. In the words of Raymond Pryke, former president of the group, the main thrust of the association's action was to aid the hapless victim of land manipulation.

As discovered in subsequent interviews and in Assembly committee testimony, the real reason behind the association's actions was to free property for continued resale, no matter what the price. This would legally keep the market going, which would keep victims of land manipulation, then able to dump their property albeit at a loss, from suing. If this were to happen, land fraud perpetrators and creators of illegal subdivisions would have to sweat out a shake-out period and maybe swallow some losses, but at the same time avoid the glare of publicity a lawsuit would bring as well as legal action by local authorities.

At the committee hearing in Palmdale, lobbyist for the California Association of Realtors Dugald Gillies said, "We should transfer the responsibility (for the expense of instituting improvements) to the person who will use the land, not the person who owns it now." After the hearing, Gillies acknowledged that regardless of what the law is, if full disclosure was employed, there may be no sales. In a subsequent interview, Gillies acknowledged that the owner of property in an illegal subdivision would probably "have to take a bath" when and if it were sold.

But at the Palmdale hearing, Assemblyman Ken MacDonald stated the other side of the issue when he rebuked a witness who was irritated at the high cost of splitting land. "If we do not nail down the cost sometime, the future taxpayer will have to pay for it. We have to protect the taxpayer from these awful problems," MacDonald said.

There are two other points to consider. The first is what will be the effect if all the worthless parcels, now lying in limbo, go for taxes? Will it be a financial disaster for a county such as San Bernardino? Or will the effect be a painful but necessary shake-out resulting in realistic land values and a more solid tax base?

Assessor Herbin said that if the property does not at least move, no matter what the price, it will spell financial disaster. First district (desert) supervisor James Mayfield, an outspoken opponent of speculative and illegal land activity, thinks that practically speaking the property will not go back to the state. "It will be sold for 10 cents on the dollar," he said. "But meanwhile the impact will continue to be severe. The technical problems of a parcel in an illegal subdivision preclude it from being recycled as a marketable commodity. The property is strangulated because of the enormous profits made by pricing land beyond its value."

The final point concerns the prosecution of the perpetrators. The record of prosecution is somewhere between a few and nonexistent.

Despite the widespread nature of land fraud, only one deputy attorney general out of 134 in the Los Angeles office works on the problem full time. With 85 deputies in the San Bernardino County district attorney's office, only one works on land fraud along with his responsibilities in other areas of consumer fraud.

Private suits

Authorities and private attorneys suing on behalf of land fraud victims face the problem of the perpetrator, the land, and the victim being in different jurisdictions. Usually three to five years pass before a victim realizes he has been had, and in many instances they are too embarrassed to complain.

If a victim does sue, it is possible the organization which sold the land has declared bankruptcy. In many instances, the corporate structure of an organization has undergone change — several times. In one land fraud suit, it took a San Bernardino attorney nearly a year to ferret out whom to serve. And finally, if a suit ends in a favorable judgment, there is the likelihood the defendant will not have any assets. While the obstacles to prosecution are real enough, still there is doubt from many quarters about the commitment to seek justice in cases of land fraud and illegal subdivisions.

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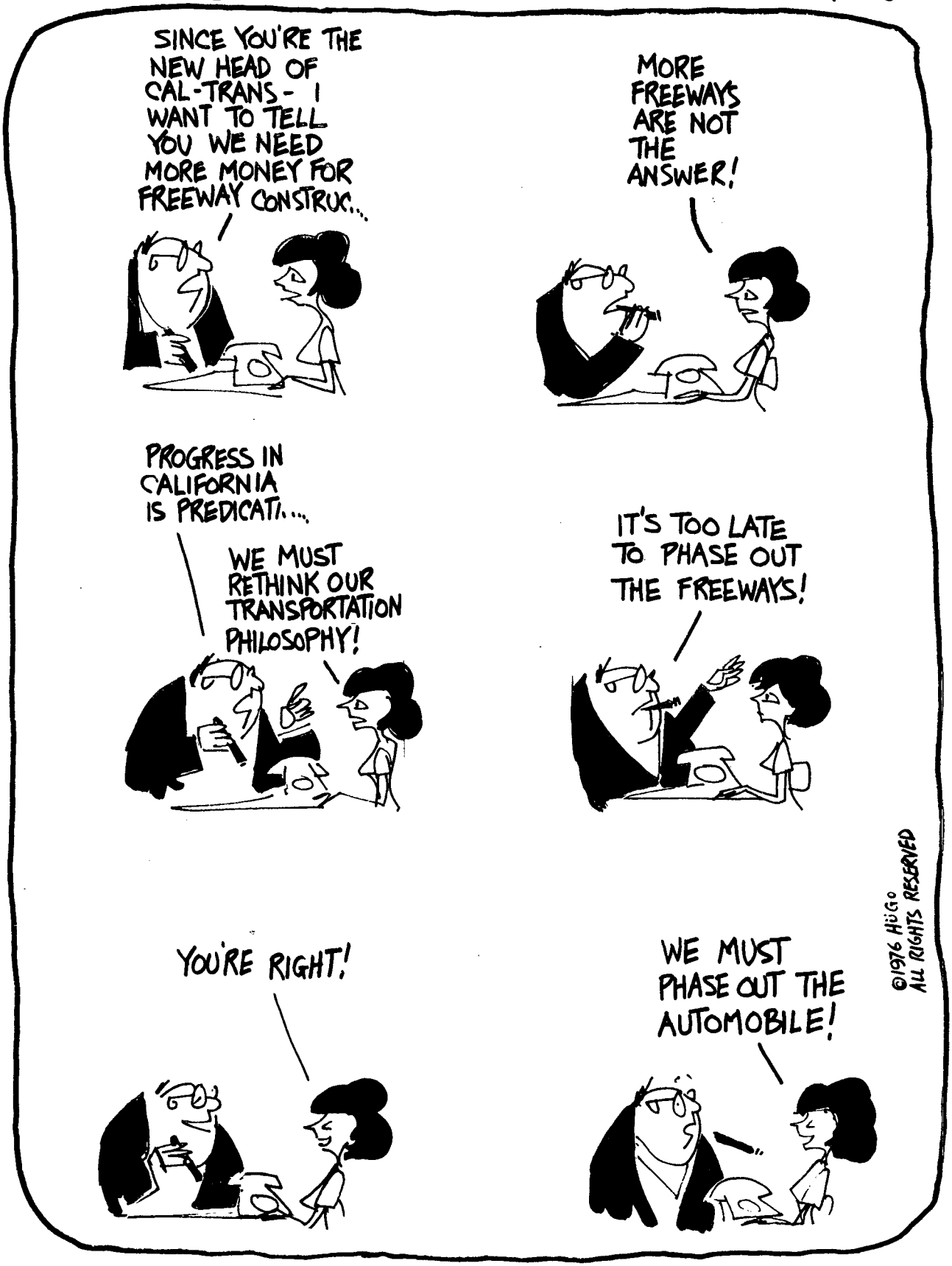
Caucus

by HüGo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COURTROOM ROULETTE

Liability-insurance panic, not limited to doctors only

By Lynn A. Hoff

What do the following have in common?

○ *A woman physician, formerly involved half-time with her patients and half-time with her children, who has just taken down her shingle.*

○ *The owner of a small roadside inn who has alienated some of his regulars by refusing to serve them drinks and others by raising his food prices.*

○ *A property owner in a smallish California community who has just learned that his city taxes are up again.*

○ *A French bread bakery in San Francisco that went out of business this spring.*

To some extent, each is a victim of a looming crisis in liability insurance.

Last year's doctors' strike focused public attention on what happens when liability, or malpractice, insurance premiums grow like Jack's beanstalk. The insurance buyer faced with an increase of nearly 400 percent, as were 4,000 doctors, chooses among raising the fees, risking bankruptcy by working without any insurance (20 percent of the state's doctors are now "going bare"), or quitting entirely. Like organized medicine in California, if the insurance buyer has political muscle, a ruckus can be kicked up forcing the Legislature to give aid.

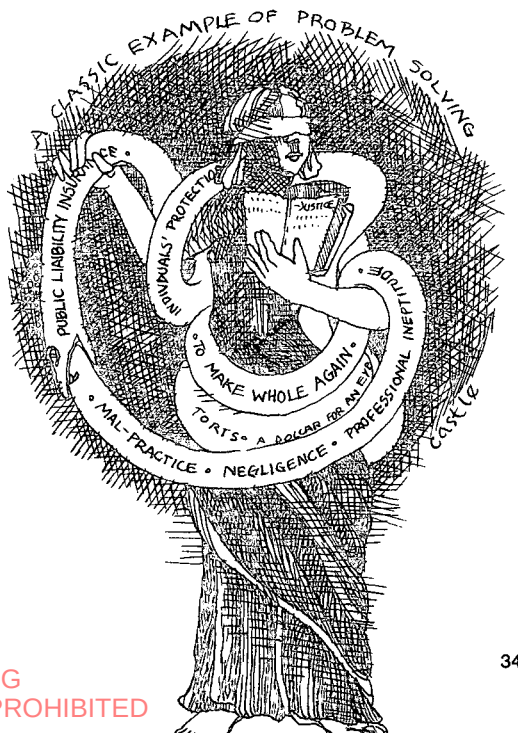
Lawmakers did just that when they went into one of their three extraordinary sessions last summer and enacted the "Keene bill," AB 1XX, and its companion, SB 24XX. The new laws, effective last winter, tried to cut down on medical negligence and on the monetary damages defendants must pay. Optimists hoped the result would be lower premiums.

The new laws had drastic effects on the four major interest groups. State supervision of physicians, especially of suspected incompetents, was strengthened, presumably making it easier to police the profession. Insurance companies' rate hikes and financial soundness were brought under stricter surveillance by the Insurance Commissioner. Lawyers were discouraged from seeking outrageous awards because of the provision that the bigger the judgment, the smaller the fraction the attorney may claim as his fee. Injured patients were limited to $250,000 for nonmonetary losses (such as pain and suffering), and shortening the time period in which claimants may file suit from four years to three years. The laws also encouraged voluntary arbitration as an alternative to settling cases in the courts.

The two bills had no immediate effect on malpractice insurance rates. Actuaries won't be able to gauge the laws' impact on insurance company losses for several years, not to mention the questions on the constitutionality of some of the enacted code sections. Though legal skirmishes continue, insurance rates still rise as policies come up for renewal. Insurance Commissioner Wesley Kinder has prevented several companies with depleted reserve funds from selling any new policies. Only a dozen malpractice insurers remain in the state, and several of these are cooperative arrangements among doctors. Suffering most from the insurance squeeze are new doctors just beginning their practices, doctors with significant numbers of Medi-Cal patients and those who have only part-time practices (part-time practitioners earn lower incomes but must pay the same rates as other doctors).

Assembly Majority Leader Howard Berman, a Los Angeles Democrat, in an attempt to contain insurance costs, introduced a bill, AB 2939, backed by Governor Brown and a splinter group called the United Physicians of California, that would have set up a state-managed insurance fund and charged physicians an average of $4,000 a year. The average premium in California is now about $12,000 for "occurrences," all incidents in a given year whether the claim is made in that year or not, and $6,000 for "claims made," which pays claims begun in the calendar year of coverage. High-risk specialists such as neurosurgeons pay as much as $35,000 in premiums each year.

The Berman bill would have enacted one of two alternative systems: A voluntary program, triggered when 18,000 physicians signed up, that would limit coverage to $1 million per incident and include a maximum annual premium in-



The author is a graduate student in journalism at the University of California, Berkeley.

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crease of 15 percent; or an unlimited-liability, mandatory program with a maximum premium increase of 25 percent. Under the latter plan, if 60 percent of the state's 34,000 doctors approved the state program, no physician could practice medicine in California without paying into the mandatory fund.

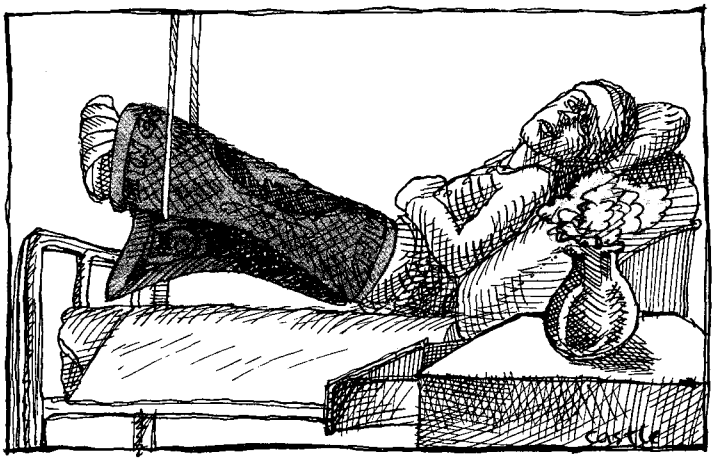
Berman's bill made it through the Assembly but ran into problems in the Senate. In early June, the California Medical Association (CMA), claiming to speak for all physicians in California, announced that its own poll of the state's doctors (40 percent responded) showed 51 percent opposed to any state-managed fund. CMA President-Elect Dr. Kash Rose said that, under the Berman measure, doctors would be tied to the state fund permanently, that it could be used as leverage to control medicine in other ways, and that it "could be as much as $4 billion in the red after four years."

Liability insurance problems for doctors are just the tip of the iceberg. Paying ever-increasing premiums, and in some cases getting liability insurance at all, are matters of economic life and death for other professionals such as lawyers, accountants, and pharmacists; for city and county governments; manufacturers; and even for small businessmen. These interest groups now are seeking quick relief, and are pointing to California courts as being at least partially responsible for their plight.

Take, for example, restaurant and bar owners. In 1971, the state Supreme Court ruled that persons injured by a drunken driver could collect damages from a third party, the bar owner, if a bartender had continued to serve a customer he had reason to believe was already intoxicated and would be driving. This spring, a Los Angeles actor won $2.3 million from a tavern owner based on the earlier "dram shop" ruling. Insurance rates went up at the same time, effecting 3,000 bar and restaurant owners. One Orange County restaurant that paid $400 last year for coverage up to $1 million in third-party liability now must pay $3,600 for only $100,000 coverage, according to Assemblyman Tom Suitt.

Suitt, a Democrat from Indian Wells, responded to a deluge of letters and phone calls from tavernkeepers by introducing a bill to limit third-party liability in such cases to a ceiling of $250,000. Suitt hoped to decrease losses for insurers, stabilizing premium rates. The bill, AB 3910, was sent to interim study during the last weeks before the election recess. Those taking the long-range view, including the Governor, see the liability problem as so vast that only a major overhaul of state tort laws can handle it.

A "tort" occurs when one person fails to live up to a standard of conduct that the law or, more realistically, the courts expect, and this act or negligence causes injury to another person's body or property. A tort is not a crime; only the injured party, not society as a whole, can take legal action against the wrongdoer. The concept that liability is based upon fault, with a few exceptions, has been handed down through centuries of British and American common law. The wrongdoer must "make his victim whole," usually by paying money damages.



Is it time for this system to change? Democratic Assemblyman Alister McAlister thinks it may be. McAlister authored a proposal, ACR 170, this spring calling for a thorough study of possible tort law reform. "California leads the way," says McAlister, a former business attorney. "We're a very litigious people; we'll sue at the drop of a hat." High expectations, fanned by news reports of huge awards, combined with "a large number of able lawyers who aren't adverse to suing" have led unprecedented numbers of claimants into court, McAlister says. State Judicial Council figures show that a suit for injury, property damage or death was filed by one out of every 26 Californians in 1974 - 75 — a 60 percent increase in ten years.

McAlister calls the California Supreme Court "the most activist court in the country" in extending legal doctrines to benefit plaintiffs. A decade ago, the court ruled in *Greenman v Yuba Power Products* that strict liability, liability for damages even though no negligence is proved, applied to the manufacturers of certain products. (Ten percent of any product's price goes for suit awards and insurance, McAlister says.) Last year in *Li v Yellow Cab*, the Court gave its blessing to the "comparative negligence" doctrine — that even though a plaintiff's own negligence helped lead to his injury, he could still win damages if he was less negligent than the defendant.

The court appears to hope to scare people and companies into behaving responsibly and vigilantly, and to compensate victims for harm over which they had no control. But the results are often higher insurance costs, soon reflected in higher prices, especially for manufacturers of products subject to the strict liability criterion. A lobbyist for the Association of California Insurance Companies, Ed Levy, says the courts are the worst group to decide liability for the public, because they are unequipped to foresee the economic impact of their decisions.

McAlister says, "It's one thing to be a knee-jerk supporter of claimants' rights when premiums aren't shooting up 200 percent. It's another when you see a segment of society on the verge of collapse." The Larraburu french bread bakery in San Francisco is a good example. The bakery had to sell its property and close down in May because insurance had covered only part of a $2 million judgment awarded to a young boy hit by a Larraburu truck.

Local government is one kind of business that just can't close down. Most people think government has a "deep pocket," and doesn't hesitate to sue. Last year in the city of Ontario, a woman was awarded $1.4 million when the branch of a tree on city-owned property fell on her. The San Francisco "sic transit Gloria" case made headlines in the late 60's when a woman named Gloria successfully sued the city, claiming that injuries in a cable car accident had turned her into a nymphomaniac.

In 1963, the Legislature tried to bring order to the common law chaos of government liability by specifically codifying government's liabilities and immunities. But recent court decisions have tended to disregard those revisions, especially in suits for false arrest and in cases where traffic and crowds turn a road or park, safe when designed decades ago, into high-risk territory.

Levy told a catch-22 story making the rounds in the insurance trade: Answering local clamor for bicycle lanes, a city marks special corridors along its streets. But cyclists now sue for injuries sustained when their tires catch in sewer grat-

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ings. The city's risk manager orders the sewer gratings turned perpendicular to traffic. In the next big rainstorm, leaves catch in the gratings and back up water — and homeowners sue because their lawns are flooded.

Last December in Santa Ana, city and county officials told horror stories to a joint hearing of the Assembly Committee on Finance, Insurance and Commerce, chaired by McAlister, and the Committee on Local Government, chaired by Assemblyman John Knox of Richmond. The committees were told, for example, that Ventura County's liability insurance premium increased 700 percent in one year. The largest municipal liability underwriter, Pacific Indemnity, withdrew from the market in summer 1974, according to witnesses, and its successor, the Insurance Company of the Pacific Coast, would follow suit last summer. For those cities that could get insurance, premium increases had averaged 96 percent since 1973-74. David Tavernatti of King City, chairman of a liability insurance task force of the League of California Cities, said that self-insurance (a routine solution for large cities) won't work in the 200 of the state's 413 cities with under 15,000 population. The added costs mean either a cutback in local services or an increase in taxes.

At the hearing, another muddle was brought out. Recent years had seen huge claims losses, but insurance companies' stock market holdings fared just as badly. Together, the two factors meant a dangerous depletion of insurance reserve funds and invited close scrutiny from the Insurance Commissioner. But, as Tavernatti noted, the firms could not be forced to reveal exactly what determined their new rates. He called for "full disclosure of all losses and risk exposures."

On August 31st, the last day of session, McAlister amended his proposal for tort law review to be done by a new joint committee of the Legislature rather than the California Law Revision Commission. The members of the joint committee haven't been appointed yet, but if they are all attorney-legislators the same objections may be raised against the joint committee that were raised when the all-attorney Law Revision Commission was proposed as the study group.

One criticism of any study group composed of lawyers is its built-in bias towards its own profession, whose contingency fee arrangements (a plaintiff's attorney gets nothing if he loses, but up to half the award if he wins) are a cruel hoax on injured parties, according to critics. Naturally, the 5000-member California Trial Lawyers Association (CTLA) backs the contingency fee system. Limits on it — as in AB 1XX — "impair the freedom of contract between an attorney and his client," says attorney Greig Fowler of San Francisco, a member of the CTLA board of governors. Fowler says that before malpractice suits, surgeons didn't even do routine sponge counts before sewing up a patient. Now, it's standard procedure. Fowler would like to see "a reaffirmation of open access to the courts, with the right to a jury trial" emerge from any long-term tort study.

The California Medical Association appointed its own "independent, blue-ribbon commission" of physicians, accountants, and businessmen to make its recommendations on tort law revision to the CMA's House of Delegates in July, 1977.

Law professor Stephen Sugarman, of the University of California at Berkeley, sees several directions these tort revision studies could take. "Tinkering" with the system would leave the basic assumption of fault untouched, but could place limits on liability and contingency fees, change evidence rules (so a defendant could show, for example, that the victim's own health insurance had already paid expenses), or could call for out-of-court mandatory arbitration of disputes.

A more radical reform would, like worker's compensation a few decades back, discard the fault concept and compensate victims according to the category of injury they suffer. There would be no awards for "pain and suffering," but payment would be certain, not courtroom roulette. Since no elaborate proof of fault would be required, most legal costs would disappear. But the big question is: who would foot the bill? Government? Producers of goods and services? "No-fault" auto insurance in Massachusetts, attorney Fowler claims, has actually increased costs there.

It's clear that if the tort system doesn't change in an orderly fashion, grave economic upheaval could result. Legislators, many of whom are lawyers, must strike a precarious balance between providing just compensation for innocent victims and keeping down exorbitant costs for everybody else, while, perhaps, some of their own law partners fight hard to preserve the status quo.

NEWSMAKERS

The unpinched pennies

The executive director of the Commission of the Californias, Dr. **Ralph Poblano**, just got a $9,660-a-year raise in pay. Lieutenant Governor Mervyn Dymally lobbied the salary increase bill through the Legislature and penny-pinching Governor Jerry Brown signed it. Senator **Dennis Carpenter** said when the bill passed the Senate that, if Brown signed it, he would resign from the commission .... Sacramento attorney **Nathaniel S. Colley, Sr.** was appointed by Brown to the California Horse Racing Board. Colley is well-known for his work on the NAACP national board of directors.

John Pincus, one of the Governor's education consultants, resigned from the state Board of Education saying Brown hadn't followed through on the educational reforms he committed himself to shortly after taking office .... The state Senate unanimously confirmed former CIA analyst **B. Baxter Rice**, 38, to the $37,212 a year post of Alcoholic Beverage Control director.

The six non-attorneys have been named by the Governor to the state Bar board of governors. They are: **Marguerite Jackson Archie**, administrative assistant to Representative Yvonne Braithwaite Burke and Brown's scheduling secretary in this year's primary campaign; **Edward R. Becks**, director of San Mateo County's Economic Opportunity Commission; **David J. Bourbion, Jr.**, dean of students at Cal State University Los Angeles; **Joyce Fadem**, commissioner for the LA Housing Authority and former teacher at LA City College; **Harriet Katz**, a freelance writer, former public relations officer with Southern California ACLU and ex-wife of Assemblyman Howard Berman, close ally of Brown and author of the bill; and **Frank Quevado**, affirmative action program manager for Hunt-Wesson Foods.

The third district seat on the Humboldt Board of Supervisors was filled by **John William Corbett**, a lawyer .... **Anthony Dougherty** moved up on the Governor's staff from the position of legislative liaison to legislative secretary, replacing **Marc Poche**, who is resuming the teaching of law at the University of Santa Clara.

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California *CAPSULES*

Who controls water flow in California, the state or the feds? The tug-of-war going on between the state and the federal government over who is supposed to regulate the flow of water to the state's agricultural and urban areas was elevated to the 9th U.S. Circuit Court of Appeals. At issue is the New Melones Dam project on the Stanislaus River that is scheduled to be completed in 1978. The state won't let the U.S. Bureau of Reclamation fill the dam more than half full. The environmentalists say that if the dam is totally filled, it will eliminate scenic white-water stretches on the river. The state says the real issue is whether a state can control any waterway that has a federal dam or other project on it. A spokesman for the U.S. Department of Justice says that once the U.S. has acquired water, it is federal water and can be used as Uncle Sam pleases.

General fund surplus but controller warns not to get hopes up Controller Ken Cory announced a general fund unrestricted surplus of $738.4 million at the end of the 1975-76 fiscal year. In the next breath, Cory warned that heavy future demands on the money would soon carve away at the slightly larger-than-expected lump sum. Cory said that last year's expenditures increased at such a rapid rate, they actually exceeded revenues by $31 million. The total surplus was $832.2 million from which $78.2 million was deducted for continuing-appropriations reserves and $15.6 deducted for special-account reserves.

Kathleen Brown Rice casts deciding vote on teachers lottery Kathleen Brown Rice, the Governor's sister, cast the deciding vote on the final attempt to stop the Los Angeles City School Board from implementing the teacher integration lottery that has been the subject of hot controversy. The 4-3 vote sent 331 teachers to different schools in the one-time-only lottery transfer. The board has already rescinded the lottery for future years. Board members refused to back down because they did not have time to come up with an alternative plan that would meet federal requirements for racially balanced faculties at individual schools and still preserve federal funds. Rice said that every teacher should be competent and willing to teach in any school, and that teachers are hired by the district and not the individual school.

Prepaid health plan director reassigned to MediCal division The acting director of prepaid health plans in the state Department of Health, Victor R. Boisseree, was reassigned to the MediCal division. The special Assembly subcommittee on health care investigations, chaired by Assemblyman Barry Keene, after investigating Omni-Rx Health Care, recommended that Boisseree be fired because he allegedly did not possess the experience, competence or commitment" necessary to oversee the program. A department spokesman said the move had nothing to do with the Omni-Rx investigation. He said it was decided when Boisseree was appointed to the position in April that he would be there only temporarily. In addition, the prepaid-health program was switched from the supervision of department deputy director Ben Sifuentes to Julian Phillips, another deputy director. Sifuentes was criticized for failing to follow through on the department's investigation of Omni-Rx.

Per diem increased for state employees and elected officials The state Board of Control gave all state employees and elected officials an increase in per diem to $35, a move that may cost taxpayers as much as $3.8 million more a year. Previous to this increase, state employees received $28 and elected officials $30 a day. For the first time, both groups will get the same daily reimbursement rate for traveling on state business. The $35 is intended to pay for lodging, three meals and $2 for incidentals. The 1976-77 state budget allowing $15.2 million for employee travel was passed by the Legislature in July. The per diem increase would put the figure up to an estimated $19 million, but since the budget has been passed, the board feels the departments will have to approve only necessary traveling.

Delegates reproach bar governing board on lawyer advertising Delegates from local bar associations reproached the state bar's board of governors for proposing a relaxation of the prohibition on lawyer advertising, and asked the board to rescind the action. The new rules on advertising are now before the state Supreme Court for approval. The board took no action on the request to rescind, but did say the Supreme Court would be notified of the delegates' action. The convention passed a resolution calling for reconsideration of the proposal by the new board of governors. The new board will be supplemented by six non-attorneys, and chances of the proposal being withdrawn are slight. It is more likely the new board would seek a further liberalization. The present proposal would call for limited advertising in legal directories, law lists and the Yellow Pages. No radio or newspaper advertising is allowed. The proposal was studied two years before it was adopted.

Berkeley professors suggest ways to raise registration of voters Two political science professors from the University of California, Berkeley, suggested that the number of voters could be increased by 10 percentage points (or 14 million voters, nationwide) by making relatively small changes in state laws. Steven Rosenstone and Raymond Wolfinger recommended allowing people to register at the peak of the presidential campaign (up to one week before the election), keeping registration offices open for longer periods of time — particularly in the evening and on Saturdays, and moving registration places into the neighborhoods. One surprise finding: postcard registration is a flop if the potential voter is responsible for picking up the postcard. California adopted a postcard registration law last year.

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Dial 911 for HELP

By JOHN SHEVERS

If your wife or husband was having a heart attack, would you know which emergency number to call? If a pile of oily rags burst into flames in your garage, would you know how the nearest fire station could be reached? What would you do if your car went off the road in a strange town and you didn't have the right coins to make an emergency call from a pay phone?

Situations like these will be less harrowing now that the money has been appropriated for the statewide 911 emergency telephone system approved in 1974. The system, when completed, will allow victims of crimes, fires and other accidents to summon help instantly from any private or public telephone in the state simply by dialing 911. There will be no charge for the call. "911 will make the telephone truly an instrument of assistance," said Hal Eisenberg, a former aide to the measure's author, Assemblyman Charles Warren, who for five years pushed hard to get the 911 bill passed.

Basic 911 systems, such as the one now operated by Monterey County, can channel incoming calls to a specially trained operator, who routes the call to the proper emergency police, fire or medical service. More sophisticated systems will electronically identify a caller's address and flash it on a police or fire dispatcher's control board. This advanced system also allows an emergency operator to stay on the line with a caller, or phone back if the caller panics and hangs up. Alameda County recently bought such a system from Pacific Telephone with money provided by the federal Law Enforcement Assistance Administration.

The 911 system eliminates the need for separate seven-digit emergency numbers in different cities. Thousands of different emergency numbers are now used in California. In Los Angeles County, for instance, there are 105 emergency numbers used by 77 different local agencies, not including the City of Los Angeles. Because the telephone company's "terminal" or service zones often don't correspond to local government boundaries, regular operators sometimes report an emergency call to the wrong police or fire station — and the caller goes without help.

The author, a political-science student at the University of California, Berkeley, prepared this article while a Journal intern.

Money: the implementer

The backers of the 911 funding bill, AB 416, sold it to Governor Brown as a "pass-through" measure that required no new taxes. The bill lent $1.2 million from the general fund so the Department of General Services could set up the system. That money will be recovered from a surtax on intrastate phone calls similar to the one imposed by the federal government during the VietNam war. Operating costs also will be taken out of the surtax. Consumers will pay about five cents a month beginning next July. A state advisory committee was created to oversee completion of the system by December 1984.

The system may cause a ripple effect, renewing pressure on some cities and counties to consolidate their emergency communications centers, usually at substantial savings to local property taxpayers. "Consolidation is mechanical, but it has been a really emotional problem," said Eisenberg. Small-town police and fire departments are as reluctant as big cities to part with their communications manpower. Because it wipes out artificial jurisdictions between, say, a county sheriff and a city police chief, 911 may trigger closer scrutiny of these largely duplicative communications budgets.

Adoption of the 911 system has been slow. So far, only Monterey and San Benito counties have operating systems, as do several small cities such as Mt. Shasta, Tracy and San Clemente. The city of Vallejo and Alameda and Marin counties have placed orders. With the new funding the necessary catalyst, California will have the first fully-integrated 911 system in the country. "The charge for 911 service will be hardly perceptible to the user," said Assemblyman Warren, "but when its finished, 911 will provide all Californians with an instant, free emergency link to police and fire services — and in many cases, that will make a big difference."

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The 'do-almost-everything' Legislature

If Californians had a "do-everything Legislature" in 1975, then they had a "do-almost-everything Legislature" this year. With a few exceptions, the Legislature took positive steps toward resolving most of the major issues before it. Governor Brown again obtained most of what he wanted from the Legislature, which concluded its business on schedule at the end of August.

On the negative side, lawmakers failed to come up with solutions to such lingering problems as medical malpractice insurance costs, the *Serrano* decision outlawing the present system of financing local schools and property tax relief. A measure dear to the pockets of many lawmakers, a constitutional amendment establishing a commission to set compensation rates for elected officials, came a cropper in the Senate. Conservationists suffered a major defeat with the Senate rejection of a bill to control the development of prime farmland.

Among the many major actions during the year:

- Enactment of a permanent plan to control development of the state's shoreline.
- Passage of three nuclear-safety bills that nailed the coffin on Proposition 15 on the June ballot.
- Financing of the Agricultural Labor Relations Board, now back in business after several months of dormancy.
- Reform of the state's system of sentencing prisoners through the elimination of the so-called indeterminate sentence.
- Passage of a bill giving the state Department of Health the power to prevent hospital expansion.
- Enactment of the nation's first right-to-die act.
- Approval of a school reform act sponsored by Wilson Riles, superintendent of public instruction. The so-called RISE measure was subsequently vetoed by Brown, prompting Riles to say: "He has obviously abandoned his previous rhetoric calling for reform and has aligned himself with the status quo." Brown said the bill was too expensive. It eventually would have cost $141 million a year.

(A more detailed summary of the 1976 legislative session, including Brown's vetoes, will be included in next month's *Journal*.)

Senate (25D, 15R)	AB 3325	AB 3392	AB 3881	SB 1277	AB 163	AB 3060	AB 4001	SB 42	AB 1713	AB 3121	AB 4356	SB 2205
Alquist (D)	Y	Y	Y	N	Y	Y	Y	Y	N	Y	Y	Y
Ayala (D)	Y	Y	*	Y	*	Y	Y	Y	N	Y	N	Y
Behr (R)	*	Y	*	Y	Y	Y	Y	Y	*	Y	Y	Y
Beilenson (D)	*	Y	*	Y	Y	Y	N	Y	N	Y	N	N
Berryhill (R)	Y	N	*	N	N	N	*	*	N	N	*	
Carpenter (R)	Y	Y	*	N	N	N	*	*	N	N	*	
Collier (D)	*	*	Y	N	Y	Y	N	Y	N	Y	N	Y
Cusanovich (R)	Y	Y	Y	N	Y	N	N	N	*	N	Y	
Deukmejian (R)	Y	Y	Y	N	Y	N	N	N	Y	N	Y	
Dills (D)	Y	N	Y	N	N	N	Y	*	N	Y	N	
Dunlap (D)	*	Y	Y	Y	Y	Y	Y	Y	N	Y	N	
Foran (D)	Y	Y	Y	Y	Y	Y	Y	Y	*			
Garcia (D)	*	*	N	Y	N	Y	Y	Y	Y			
Greene (D)	*	Y	*	Y	Y	*	Y	Y	Y			
Gregorio (D)	Y	Y	Y	Y	Y	Y	Y	Y	N			
Grunsky (R)	Y	Y	Y	Y	Y	Y	*	*	N			
Holden (D)	Y	N	Y	N	*	Y	Y	Y	Y			
Holmdahl (D)	Y	Y	Y	Y	Y	Y	Y	N	N			
Kennick (D)	*	*	*	N	*	Y	Y	*	Y			
Marks (D)	*	N	Y	Y	Y	Y	Y	Y	N			
Mills (D)	Y	*	*	Y	Y	Y	Y	Y	Y			
Nejedly (R)	*	*	Y	Y	N	Y	Y	N	N			
Petris (D)	Y	N	Y	Y	*	Y	Y	Y	*			
Presley (D)	Y	*	Y	Y	*	N	Y	N	N			
Rains (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y			
Richardson (R)	Y	N	*	N	N	N	*	N	*			
Robbins (D)	*	Y	Y	*	Y	*	*	*	N			
Roberti (D)	Y	Y	Y	N	Y	N	Y	Y	Y			
Rodda (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y			
Russell (R)	Y	N	N	N	*	N	Y	N	Y			
Schrade (R)	Y	N	Y	Y	N	N	Y	N	N			
Smith (D)	Y	*	*	Y	Y	Y	Y	Y	*			
Song (D)	*	Y	*	Y	Y	Y	N	Y	N			
Stevens (R)	*	Y	*	Y	Y	Y	*	Y	N			
Stiern (D)	Y	Y	*	Y	Y	N	Y	N	N			
Stull (R)	Y	N	*	N	N	N	N	N	*			
Way (R)	Y	*	*	N	Y	Y	Y	N	N			
Wedworth (D)	*	N	Y	Y	N	Y	Y	N	Y			
Whetmore (R)	Y	*	N	N	*	*	Y	N	*			
Zenovich (D)	*	Y	Y	Y	Y	Y	Y	N	Y			

VOTING RECORDS

Listed here are the votes of legislators on recent major roll calls through the end of session. Votes selected involve issues of major importance and issues on which there was a major division of opinion, or both.

Y - Yes
N - No
*** — Absent or not voting**

A ⅔ vote is required for urgency measures, constitutional amendments, and appropriations.

Assembly: 41 votes required for passage of bills needing a simple majority. (⅔ = 54 votes)

Senate: 21 votes required for passage of bills needing a simple majority. (⅔ = 27 votes)

Senate

BUSINESS AND CONSUMER AFFAIRS

AB 3325 (McAlister) — Gives cities and counties the power to license and regulate massage parlors. Passed 26 - 0.

EDUCATION

AB 3392 (Wilson) — Requires unaccredited law schools to disclose to prospective students their financial status, faculty qualifications, and the success-failure ratio of their graduates on the bar examination. Passed 21 - 10.

EMPLOYMENT

AB 3881 (Fazio) — Permits women to receive up to six weeks of state disability benefits when off work because of normal pregnancy. Passed 22 - 3.

ENVIRONMENT

SB 1277 (Smith) — Continues the California Coastal Commission and six regional commissions to control coastal development. Senate final approval, 25 - 14.

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AB 163 (Berman) — Creates the Santa Monica Mountains Comprehensive Planning Commission to coordinate development and conservation of the region. Passed 27 - 7.

HEALTH AND WELFARE

AB 3060 (Keene) — Enacts Natural Death Act. Permits an adult to authorize a physician to withdraw life-sustaining medical treatment of terminal illness. Passed 22 - 14.

AB 4001 (Keene) — Requires health facilities and hospitals to obtain a certificate of need before they can expand or construct new medical facilities. Passed 30 - 4.

JUSTICE

SB 42 (Nejedly) — Abolishes the indeterminate sentence law and substitutes a system wherein prison sentences are fixed by judges and a new Community Release Board will grant paroles. Senate gives final approval, 25 - 9.

AB 1713 (Mori) — Permits California Youth Authority to appoint convicted felons under its control as peace officers. Passed 21 - 20 (tie-breaking vote cast by Lieutenant Governor Dymally).

AB 3121 (Dixon) — Empowers juvenile courts to establish a juvenile conciliation court to deal with minors accused of noncriminal conduct or offenses made criminal solely by their age. Passed 21 - 12.

AB 4356 (Sieroty) — Requires Adult Authority to set parole dates for all inmates imprisoned after Jan. 1, 1977 and to set dates by Jan. 1, 1978 for persons imprisoned before Jan. 1. 1977. Passed 21 - 17.

TRANSPORTATION

SB 2205 (Cusanovich) — Prohibits preferential (diamond) lanes for high occupancy vehicles on highways unless authorized by the Legislature. Passed 27 - 5.

Assembly (53D, 25R)	SB 1683	SB 2116	SB 1737	SB 173	SB 410	SB 1378	SB 1754	AB 3060	SB 42	SB 627	SB 1687	SB 2153
Alatorre (D)	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N
Antonovich (R)	*	N	N	N	N	N	N	N	N	Y	Y	Y
Arnett (R)	*	N	Y	N	Y	Y	Y	Y	N	Y	Y	Y
Badham (R)	Y	N	*	N	N	N	*	Y	N	N	N	N
Bane (D)	Y	Y	Y	N	Y	*	Y	*	Y	Y	Y	Y
Bannai (R)	Y	N	Y	N	N	Y	Y	Y	Y	N	Y	N
Berman (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	Y
Beverly (R)	Y	N	Y	N	Y	N	Y	N	*	N	Y	N
Boatwright (D)	*	Y	Y	Y	Y	Y	Y	Y	Y	*	Y	Y
Briggs (R)	Y	N	Y	N	Y	*	*	N	N	N	Y	Y
Brown (D)	*	*	Y	*	Y	Y	Y	Y	Y	*	*	Y
Burke (R)	Y	N	*	N	N	*	N	N	N	N	N	Y
Calvo (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Campbell (R)	*	N	Y	N	N	N	N	*	N	*	*	*
Carpenter (D)	Y	*	Y	Y	Y	Y	Y	N	N	*	Y	Y
Chacon (D)	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Chappie (R)	*	N	Y	N	N	N	Y	N	N	*	N	Y
Chel (D)	N	Y	Y	Y	N	Y	Y	N	N	Y	Y	N
Chimbole (D)	Y	N	Y	N	Y	Y	N	Y	N	*	N	Y
Cline (R)	*	N	N	Y	*	*	N	N	*	N	Y	N
Collier (R)	Y	N	N	N	N	Y	N	Y	N	Y	N	Y
Craven (R)	Y	N	Y	N	N	N	N	Y	Y	*	Y	Y
Cullen (D)	Y	Y	Y	*	N	Y	*	Y	N	*	Y	Y
Davis (D)	Y	*	*	N	*	*	N	Y	*	Y	*	Y
Deddeh (D)	N	N	Y	N	N	Y	N	Y	Y	Y	Y	Y
Dixon (D)	N	Y	Y	Y	Y	Y	Y	Y	*	Y	Y	Y
Duffy (R)	Y	N	N	N	Y	Y	N	N	Y	Y	Y	N
Egeland (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Fazio (D)	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N
Fenton (D)	*	Y	N	Y	N	Y	N	N	Y	Y	Y	N
Garamendi (D)	N	Y	Y	Y	Y	Y	*	Y	N	Y	Y	N
Goggin (D)	Y	Y	*	Y	Y	Y	Y	Y	Y	Y	Y	Y
Greene (D)	Y	N	Y	Y	Y	Y	*	Y	Y	*	Y	N
Gualco (D)	N	Y	Y	Y	Y	Y	*	Y	*	Y	Y	N
Hart (D)	N	Y	Y	Y	Y	Y	*	Y	Y	*	Y	Y
Hayden (R)	Y	*	Y	N	N	Y	*	Y	Y	N	Y	Y
Hughes (D)	Y	Y	*	N	Y	Y	Y	*	N	Y	Y	Y
Ingalls (D)	*	Y	N	Y	Y	Y	Y	*	N	Y	Y	Y
Kapiloff (D)	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y
Keene (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Keysor (D)	Y	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*
Knox (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Lancaster (R)	*	N	Y	N	N	N	N	N	*	N	Y	N
Lanterman (R)	*	N	Y	N	N	Y	N	Y	*	Y	Y	Y
Lewis (R)	Y	N	Y	N	N	N	N	N	Y	*	Y	N
Lockyer (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
MacDonald (D)	Y	Y	*	Y	N	*	*	Y	Y	Y	Y	Y
Maddy (R)	Y	N	Y	N	N	Y	Y	N	Y	*	Y	N
McAlister (D)	Y	N	N	Y	Y	Y	N	N	Y	Y	N	N
McCarthy (D)	*	Y	*	Y	Y	Y	Y	Y	Y	*	Y	Y
McLennan (R)	*	N	N	N	N	N	*	Y	N	N	N	N
McVittie (D)	Y	Y	Y	N	N	Y	N	N	Y	Y	N	N
Meade (D)	N	Y	*	Y	Y	Y	*	Y	Y	Y	Y	Y
Miller (D)	N	Y	Y	Y	Y	Y	Y	N	N	*	Y	N
Mobley (R)	*	N	Y	N	N	N	N	Y	N	Y	N	Y
Montoya (D)	Y	Y	*	*	Y	Y	*	N	Y	*	Y	N
Mori (D)	*	Y	*	Y	Y	Y	*	N	Y	*	Y	N
Murphy (R)	Y	N	N	*	*	*	*	*	*	*	*	Y
Nestande (R)	N	N	N	Y	Y	Y	N	Y	N	Y	N	Y
Nimmo (R)	Y	N	Y	N	N	N	N	N	*	Y	N	N
Papan (D)	Y	Y	Y	Y	Y	Y	*	Y	Y	*	Y	Y
Perino (D)	N	N	Y	N	N	*	Y	N	N	*	Y	N
Priolo (R)	*	N	Y	N	N	N	*	Y	N	*	Y	N
Ralph (D)	Y	Y	Y	Y	Y	Y	Y	*	Y	*	Y	Y
Robinson (D)	Y	Y	Y	N	N	Y	N	N	N	*	*	N
Rosenthal (D)	N	Y	Y	N	Y	Y	Y	Y	Y	N	Y	N
Sieroty (D)	N	Y	Y	Y	Y	Y	Y	N	Y	*	*	N
Suitt (D)	*	N	Y	N	Y	Y	*	Y	N	*	N	Y
Thomas, V. (D)	Y	*	Y	N	Y	Y	*	N	Y	*	*	N
Thomas, W. (R)	*	N	N	N	N	Y	Y	Y	N	Y	Y	N
Thurman (D)	Y	N	Y	Y	Y	Y	*	Y	N	Y	Y	N
Torres (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N
Tucker (D)	Y	Y	Y	N	N	*	*	N	Y	N	Y	N
Vasconcellos (D)	N	Y	Y	*	Y	Y	Y	*	Y	N	Y	N
Vicencia (D)	*	Y	Y	N	Y	Y	N	N	Y	Y	Y	Y
Warren (D)	N	Y	Y	Y	Y	Y	Y	Y	Y	*	*	*
Wilson (D)	N	Y	Y	Y	Y	*	N	N	N	Y	Y	N
Wornum (D)	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

Assembly

BUSINESS AND CONSUMER AFFAIRS

SB 1683 (Alquist) — Prohibits public utilities from mailing political advertising with bills if it does not relate to issues affecting the utility's rates or services. Defeated 34 - 25.

SB 2116 (Gregorio) — Increases public membership on licensing and professional boards in Department of Consumer Affairs. Passed 41 - 32.

EDUCATION

SB 1737 (Dunlap) — Enacts reforms in intermediate and secondary educational (RISE) programs, bilingual services, school site construction, and financing. Passed 63 - 9.

HEALTH AND WELFARE

SB 173 (Behr) — Extensively revises the method of selling and fitting hearing aids, requires purchaser to have hearing tests before being sold hearing aids, and imposes 30-day trial period for all hearing devices sold. Failed 36 - 33.

SB 410 (Beilenson) — Prohibits the use of blood obtained from paid blood donors except when volunteer sources of blood are not available. Passed 44 - 33.

SB 1378 (Beilenson) — Imposes a two-year moratorium on the construction of new health facilities, including hospitals and additional beds for existing hospitals, with specified exceptions. Passed 55 - 13.

SB 1754 (Beilenson) — Allows prophylactics to be sold through vending machines located in restrooms open to the public. Passed 41 - 21.

AB 3060 (Keene) — Enacts Natural Death Act. Permits any adult person to authorize physician to withdraw life-sustaining medical treatment in the event of terminal illness. Assembly approval of Senate amendments, 43 - 30.

JUSTICE

SB 42 (Nejedly) — Abolishes the indeterminate sentence law and substitutes a system wherein prison sentences are fixed by judges. A new Community Release Board will grant paroles. Passed 60 - 17.

SB 627 (Behr) — Extends worker's compensation coverage to inmates of state correctional facilities. Passed 41 - 31.

TRANSPORTATION

SB 1687 (Mills) — Revises the state's Transportation Development Act to expand funding of local transit services. Passed 45 - 12.

SB 2153 (Robbins) — Authorizes $200 million rapid transit financing act for Los Angeles County upon voter approval. Urgency clause refused adoption, 34 - 21.

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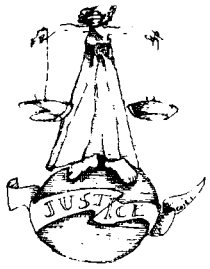

SIGNIFICANT COURT ACTIONS

UC minority-student admissions policy

In a landmark decision, the state Supreme Court declared unconstitutional a University of California special admissions program giving preference to minority-student applications. The ruling applies to all Califronia public schools where enrollment is limited and the inclusion of a minority would mean the exclusion of a caucasian. The decision does not affect admissions policies of private institutions.

In *Bakke v. UC Regents*, Allan Bakke, a caucasian, claimed he was the victim of reverse discrimination when the University of California, Davis, Medical School refused him admission in 1973 and 1974. Claiming a violation of the equal-protection clause of the 14th Amendment to the U.S. Constitution, Bakke sued the University charging he was discriminated against because he is white and a preferential admission standard was set for minority applicants by the medical school. Out of the 100 slots for medical students in each of the years Bakke applied, 16 were set aside for disadvantaged minorities.

In the 6-1 decision, the Court ruled that the special admissions program was constitutionally invalid and returned the case to Yolo County Superior Court to determine whether Bakke would have been admitted to the 1973 or 1974 classes if the special admissions program hadn't existed.

Justice Stanley Mosk, in a 48-page decision, held that it is not necessary to discriminate against white applicants to achieve integration of the student body and improving medical care for minorities. Mosk wrote: "We do not hesitate to reject the notion that racial discrimination may be more easily justified against one race than another."

The lone dissenter, Justice Mathew Tobriner, wrote in the 57-page decision that "as a practical matter, racial classifications frequently must be employed if the effects of past discrimination and exclusion are to be overcome." UC Regents general counsel Donald L. Reidhaar said the decision will probably be appealed to the U.S. Supreme Court.

Picket in peace

In a unanimous decision, the state Supreme Court ruled that state courts have no jurisdiction over peaceful picketing by labor organizations on private property. The regulation of this type of picketing is within the exclusive jurisdiction of the National Labor Relations Board, the court said in an opinion written by Justice Raymond L. Sullivan.

In *Sears Roebuck v. San Diego Carpenters Union*, the issue was a union picket line established in a parking lot adjacent to the Sears store in Chula Vista. The Superior Court issued a temporary restraining order prohibiting picketing on company property.

The Supreme Court reversed the order, stating that federal law preempts both state and federal court jurisdiction because the law gives the NLRB exclusive jurisdiction. "There is no exception permitting state courts to exercise jurisdiction over peaceful labor activity merely because it involved trespass on private property," Sullivan wrote.

The opinion emphasized that state courts can take action "to prevent mass picketing, violence, threats of violence and obstructions to ingress and egress which threaten public health or safety."

The right to defend

Torrey Wood Payne was in prison for stealing guard dogs from a competing firm. The competitor subsequently filed a civil suit against Payne for damages arising out of the theft. Payne's request to attend the trial was denied by the Department of Corrections. Payne was indigent and could not hire an attorney to represent him. A default judgment was entered against Payne for $24,722 in a Los Angeles Superior Court.

In a 4-3 decision, the state Supreme Court reversed the judgment and concluded that Payne had been denied his constitutional right of access to the courts. The majority opinion was written by Justice Stanley Mosk, joined by Chief Justice Donald Wright and Justices Mathew Tobriner and Sullivan.

Mosk stressed that the court is not granting indigents the right of counsel in civil cases and is not guaranteeing that every prisoner be given counsel or the right to appear in person. "All we decide is that when a prisoner is threatened with . . . deprivation of his property, due process and equal protection require a meaningful opportunity to be heard.

The dissenters in *Payne v. Superior Court*, Justices Frank K. Richardson, Marshall McComb and William P. Clark Jr., said the decision goes too far because it could lead to a right of both personal appearance and counsel in civil suits against prisoners.

The rap sheet

In a unanimous decision written by Mosk, the court ruled that an individual who is arrested but not convicted cannot require law enforcement officials to erase the arrest records. In *Loder v. Municipal Court*, a San Diego Municipal Court ruled that various law enforcement officials had no duty to destroy records showing that Joseph Loder had been arrested for battery, obstructing a police officer and disturbing the peace even though the complaint was subsequently dismissed.

The court said the Legislature has spelled out those cases in which arrest records may be sealed, and Loder's case did not qualify. Legitimate state interests outweigh any potential misuse of the records, Mosk wrote, and the risks of misuse have been diminished in recent years by legislative and executive action.

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A WASHINGTON PERSPECTIVE . . .

By Lou Cannon

Humpty Dumpty and kitchen sinks

Jimmy Carter, barefoot and wearing jeans, was drinking a glass of milk and eating a baloney sandwich when the reporters came to his house to interview him on the Friday before his fall campaign began. This was the interview in which Carter would talk about his need for getting a broad mandate from the voters and give his opinion that a tie in the presidential debates was equivalent to a victory.

Forty minutes later, when the interview was nearly ended, one reporter brought up Republican vice presidential nominee Bob Dole's criticism of Carter for saying that he wanted to "pardon" VietNam War draft resisters rather than give them "amnesty." Dole had observed that these two words have the same dictionary definition.

"Not in my dictionary," Carter said with some animation, offering to take the reporters into his library and show them. The reporters obliged. With Carter, they turned the pages of Webster's Third International Dictionary, dutifully noting the various special usages of the word "amnesty." Then one of them observed, as Dole had, that the dictionary listed the word as a synonym for "pardon."

"I'm reserving the right to define the words the way I want to," Carter replied. He was smiling but his words left a chill, perhaps because the reporter remembered *Alice in Wonderland*. ("When *I* use a word," Humpty Dumpty said, "it means just what I choose it to mean — neither more nor less.") But Carter's comment turned out to define the shape of things to come. When he goofed in an interview with the Associated Press two weekends later and left the impression he wanted to raise taxes on everyone making more than the "median" income, Carter's aides repaired to Humpty Dumpty's defense.

"The median," said one of them, "is whatever Governor Carter wants it to be."

* * *

Gerald Ford's difficulties are of a different order. In his campaign opening speech in Grand Rapids, which fortunately for the President was not seen on national television, Ford appeared intent on demonstrating that his masterful performance at the Republican National convention had been a fluke.

The speech had its moments, notably in Ford's forceful challenge of Carter on the issue of "trust." Also, Ford won plaudits from the majority of the students jammed into the Crisler Arena at the University of Michigan for his patient and good-natured endurance of constant heckling. Taken as a whole, however, his speech was a rambling document which one aide privately referred to as "the kitchen-sink address.'

Reflecting Ford's propensity for taking bits and pieces of a speech from a dozen conflicting advisers, the address drifted between minor mortgage reform proposals, denunciations of crime, vague promises of tax credits for parents who send their children to private schools and celebrations of peace and prosperity. The latter could not have been more ill-timed, coming as it did when Michigan's inflation and unemployment is soaring and the Ford auto workers are on strike.

This did not deter the President. He plowed gracelessly through his text, flinching when a cherry bomb went off but otherwise appearing to be oblivious of what was going on in the country he intends to govern for four more years.

* * *

Reporters covering Ford at least eat better than those on the Carter plane. This is largely because the Carter organization is leasing its campaign planes, rather than chartering them, and saves money by short-changing on the food. After a particularly bad meal on the Carter plane recently, reporters cried, "No more swill." When Press Secretary Jody Powell came back to quiet the noise because Carter was angry about it, he was struck by flying egg rolls.

* * *

Ronald Reagan can mean the difference between victory and defeat for Ford in California, according to Ford Committee strategists who not so long ago were reviling the former California governor. Research taken for the Ford Committee shows that 80 percent of the Republicans planning to vote for Ford in California favor Reagan for President. And of the undecided voters who plan to split their tickets in November, which is one of nine Californians, 44 percent consider themselves conservative.

* * *

The reliance on Reagan has extended to a reliance on those who worked for him. The Ford polling organization, headed by Robert Teeter of Detroit, has subcontracted polling in California and Texas (where Teeter was off the mark in the May 1st primary) to Decision Making Information of Santa Ana, headed by Richard Wirthlin, the Reagan polling firm in the primaries.

Jim Lake, the capable Reagan press secretary, is co-chairman of "Farmers for Ford," along with another ex-Californian, Dick Lyng. Lyn Nofziger is doing his best to help Dole straighten out his logistics problems and two key Reagan advance men, David Keane and Charles Black, also are working for the Ford-Dole Committee. Before the election it's even conceivable that someone in the Ford organization will search out Reagan mastermind John Sears for advice, of which he usually has plenty. At this moment, however, Sears intends to vote Republican but to sit out the presidential campaign.

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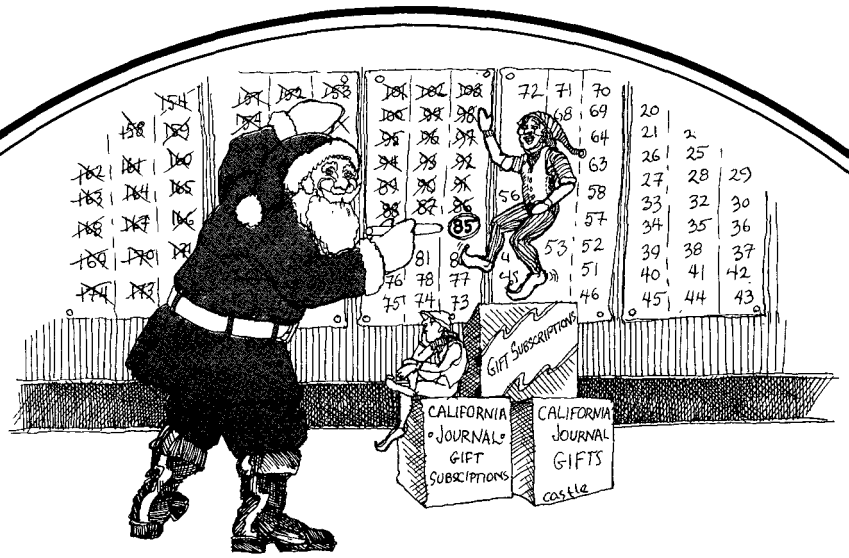

Only 85 more shopping days until Christmas

We hate to bring up the subject in October, but this is the time to start thinking about what to give those far-flung friends and relatives for Christmas this year. May we suggest a gift that is at once informative and educational (and occasionally even entertaining)?

What we're suggesting, of course, is a gift subscription to the *California Journal*. The *Journal* makes an ideal present for anyone interested in California politics and government. Besides, it's a gift that keeps coming 12 times a year.

With each subscription, we will send a card to the recipient informing him or her of your gift. For each gift subscription, send your check for $15 (or your BankAmericard or Master Charge number) to our circulation department, 1617 10th St., Sacramento 95814. If you prefer, ask us to bill you.

Other gift suggestions:

Classic books on California, by Carey McWilliams, three volumes: ***California: The Great Exception; Southern California: An Island on the Land;*** and ***Factories in the Field.*** A $12.85 value for $10, tax included.

The ***California Journal Almanac of State Government and Politics***, packed with information on all aspects of government in California, $3.13 including tax.

Postage is free only on prepaid orders.

Civilization will be saved, not by democracy, not by idealism, not by the United Nations, but by a sense of humor.

— William Feather

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